



Infrastructure Permitting
Improvement Center (IPIC)

SURFACE TRANSPORTATION NEPA PROCESS IMPROVEMENTS REPORT TO CONGRESS





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STATEMENT FROM THE SECRETARY OF TRANSPORTATION

The Biden-Harris Administration is making strides to improve environmental review and permitting to ensure the delivery of well-designed infrastructure projects, including those enabled by the Bipartisan Infrastructure Law. As we have worked to harmonize and implement improvements over time through new legislation, Executive Orders (EOs), and rulemakings, we have continued to stay true to our mission “to deliver the world’s leading transportation system, serving the American people and economy through the safe, efficient, sustainable, and equitable movement of people and goods.” As a result, we have become a leader in the federal community in innovations in environmental review and permitting.

We have made substantial progress in decreasing environmental impact statement (EIS) timelines over the past decades. Despite this progress and our current focus on effective NEPA processes, we know we have more work to do. As such, we have identified seven key strategies that offer an opportunity to move the needle further. Some of the strategies expand on practices that we know work, such as agency liaisons and programmatic agreements, and other strategies are new, such as Modernizing NEPA and Concierge initiatives.



As we continue our commitment to delivering infrastructure that serves the American people, we remain committed to NEPA processes that are timely, efficient, and transparent and that facilitate positive outcomes for our communities.

Pete Buttigieg
US Secretary of Transportation

EXECUTIVE SUMMARY

This report fulfills the United States Department of Transportation (DOT) requirement in Section 11301 of the Bipartisan Infrastructure Law (BIL) to submit a Report to Congress describing strategies to ensure efficient National Environmental Policy Act (NEPA) processes for surface transportation projects under 23 United States Code (U.S.C.) § 139.

WHAT IS DOT'S BACKGROUND WITH IMPROVING NEPA IMPLEMENTATION FOR SURFACE TRANSPORTATION?

Improving NEPA implementation has been an ongoing effort for decades and DOT has made substantial progress by implementing provisions in congressional reauthorizations and other process improvements across the Department. Surface transportation Operating Administrations¹ Environmental Impact Statement (EIS) timelines have trended downward since congressional reform efforts started with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005.

WHERE IS DOT'S SURFACE TRANSPORTATION NEPA PROCESS TODAY?

As a result of the Congressional reporting requirement, DOT examined current NEPA practices for surface transportation (practices in place in 2023). DOT consulted with its modal Operating Administrations and other federal agencies that review environmental documents for surface transportation projects. Many best practices, procedures, and regulations in place today have led to efficiencies in the NEPA review process. DOT also has a suite of actions that were recently implemented and are still in progress with anticipated future benefits, including those available through BIL, the Inflation Reduction Act (IRA), and the Fiscal Responsibility Act.

WHAT IMPEDIMENTS REMAIN TO AN EFFICIENT NEPA PROCESS?

DOT identified impediments that, if addressed, will further improve timeframes while ensuring protections for communities and the environment.

WHAT STRATEGIES CAN DOT IMPLEMENT TO ACCELERATE THE NEPA PROCESS?

This report highlights seven key strategies DOT is undertaking to reduce remaining impediments and further facilitate an efficient NEPA process for surface transportation programs. These strategies complement the suite of permitting improvement actions already in progress. The strategies are:

1. Broaden the Liaison Program
2. Catalog, Update, and Implement More Programmatic Agreements
3. Encourage Interactive, Web-Based Platforms for NEPA Documents
4. Consolidate NEPA Rules and Guidance in a Central Resources Page
5. Establish a Concierge Program
6. Encourage Robust Planning Efforts Prior to Initiating NEPA
7. Leverage \$100 million in Inflation Reduction Act (IRA) Funding

WILL ADDITIONAL FUNDING HELP DOT MEET ENVIRONMENTAL REVIEW REQUIREMENTS?

In conjunction with funding provided by the BIL and IRA, the President's Budget for Fiscal Year 2024, released March 9, 2023, reflects the funding DOT needs to meet its commitments in the near term, including advancing the strategies described in this report. Agencies responsible for permitting (such as the US Army Corps of Engineers and the US Fish and Wildlife Service), particularly those that did not receive funding to support BIL and IRA implementation, must also be adequately funded to ensure timely and effective environmental review processes.

¹ Surface Transportation Operating Administrations for purposes of this report include Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA).

INTRODUCTION AND PURPOSE

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA) ([Pub. L. 117-58](#), also known as the Bipartisan Infrastructure Law (BIL)). BIL authorizes approximately \$1.2 trillion over Fiscal Years 2022 through 2026 for roads, bridges, major projects, passenger and freight rail, safety, and public transit. The BIL modified the environmental requirements at 23 U.S.C. § 139 (Efficient environmental reviews for project decision making and One Federal Decision) which outline procedures for environmental impact statements (EISs) prepared under the National Environmental Policy Act.² The requirements under 23 U.S.C. § 139 apply to highway, public transportation, railroad, and multimodal projects that require approval by the Secretary of Transportation or an Operating Administration. The Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA) follow 23 U.S.C. § 139 (https://www.environment.fhwa.dot.gov/legislation/authorizations/bil/bil_qa.aspx).

23 U.S.C. § 139(c)(7)(C) requires the Secretary of Transportation submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes:

- A review of existing practices, procedures, rules, regulations, and applicable laws to identify impediments to meeting the requirements applicable to projects under 23 U.S.C. § 139.
- A review of best practices, programmatic agreements, and potential changes to internal departmental procedures that would facilitate an efficient environmental review process for projects.
- An analysis of whether additional funding would help the Secretary meet the requirements applicable to projects under 23 U.S.C. § 139.

In conducting the review, the Secretary is required to consult with other federal agencies that participate in the environmental review process. The report is to be submitted no later than two years from the enactment of BIL.

² 23 U.S.C. § 139 procedures may be applied, as requested by a project sponsor and to the extent determined appropriate by the Secretary of Transportation, to other projects for which an environmental document is prepared pursuant to NEPA.

Consistent with the statutory direction in BIL, this report focuses on how surface transportation (FHWA, FRA, and FTA) projects meet requirements in 23 U.S.C. § 139. The requirements under 23 U.S.C. § 139 pertain to efficient environmental reviews for environmental impact statements (EISs). DOT also included some content on DOT processes beyond surface transportation and EISs, where appropriate.

WHAT IS DOT'S BACKGROUND WITH IMPROVING NEPA IMPLEMENTATION FOR SURFACE TRANSPORTATION?

NEPA and Its Origins

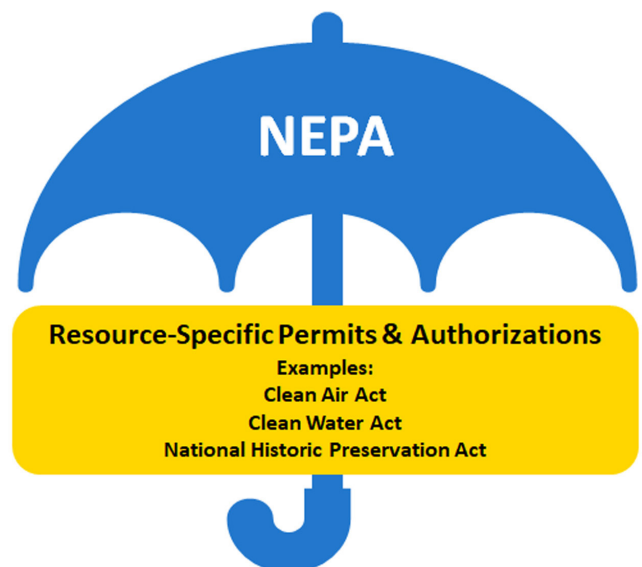
In response to public concern regarding the impact human activity had on the environment, Congress passed the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. § 4321 et seq.). The Act was signed into law by President Richard Nixon on January 1, 1970. From its inception, NEPA implementation required a detailed statement of environmental impacts be prepared for all major federal actions that significantly affect the environment. NEPA also established the Council on Environmental Quality (CEQ), which provides oversight of NEPA's implementation. Executive Order (EO) 11991 authorized CEQ to issue regulations applicable to all federal agencies regarding the preparation of EISs in 1978.

NEPA continues to be an effective tool because it ensures that agencies consider and disclose potentially significant environmental effects, and because it provides a framework (see Figure 1) to concurrently comply with NEPA's procedural requirements and other substantive environmental laws through studies, reviews, and consultations in a coordinated

matter. NEPA requires federal agencies to assess the environmental effects of proposed major federal actions prior to making decisions, and to inform the public of the results prior to implementing the proposals. The environmental review process requires adequate time to ensure a thoughtful and appropriate review of the proposal's effects on the natural environment, while at the same time ensuring appropriate public participation. Successfully implementing NEPA requires agencies to achieve these goals through a timely process that delivers the benefits of proposed projects to the traveling public in an expeditious manner.

While the NEPA process is an effective tool to bring to light environmental effects and coordinate the various environmental permits and approvals for a project, DOT recognizes the importance of ensuring the decision-making process remains efficient and effective. DOT uses best practices and continues to pursue opportunities to improve the NEPA process while ensuring continued protection for the environment.

Figure 1: NEPA Umbrella



How DOT's NEPA Process Differs from Other Federal Agencies

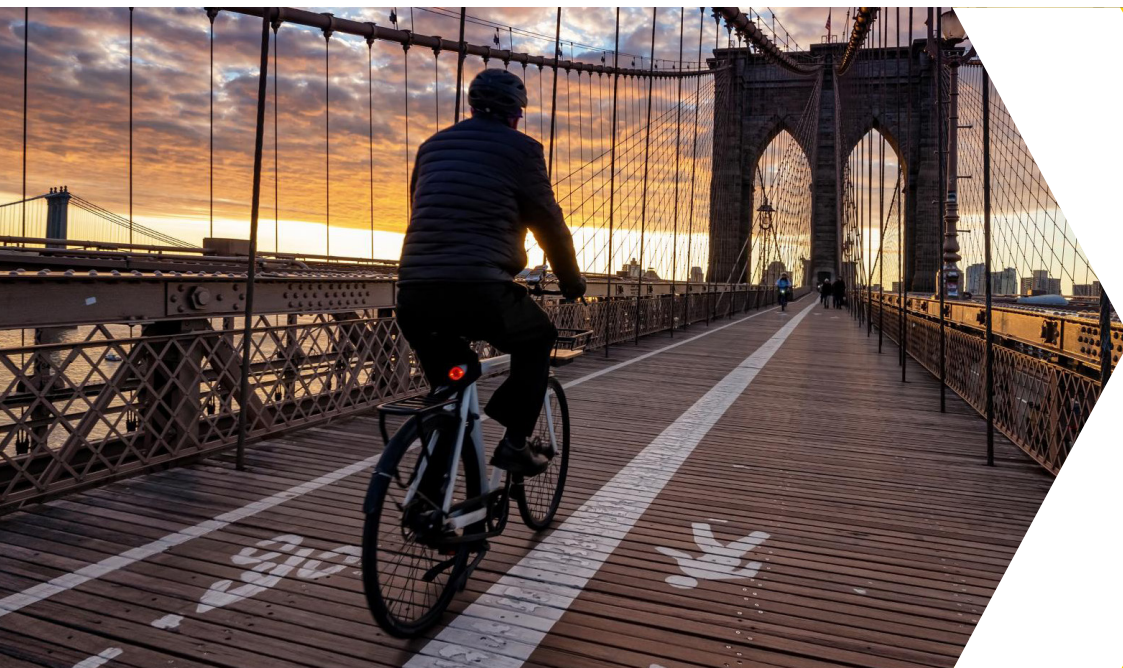
DOT as a Leader. DOT has served as a leader in environmental review process transformation for decades through implementation of requirements in surface transportation authorizations and other initiatives. Congress assigned specific permitting provisions for DOT to initiate first, and then broadened the provisions to other agencies. For example, DOT first initiated tracking projects on a publicly-accessible Dashboard in conjunction with a small number of federal agencies in response to a 2011 Presidential Memorandum (Presidential Memorandum--Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review | [whitehouse.gov \(archives.gov\)](http://whitehouse.gov/archives.gov)). Then, Congress created a process for infrastructure agencies to post projects on the Dashboard in accordance with Title 41 of the Fixing America's Surface Transportation Act of 2015 (FAST Act).

Throughout its history, DOT has demonstrated a consistent commitment to efficient and effective environmental review by developing and implementing process improvements. These improvements have included activities such as developing and implementing programmatic agreements, establishing

and expanding liaison programs and funded positions, and improving accountability by tracking projects through the Permitting Dashboard and other individual Operating Administration tools. DOT has also led interagency working groups to coordinate efficient permitting processes, such as the Transportation Rapid Response Team.

DOT Operating Administrations. DOT has nine modal Operating Administrations (or modes), as shown in Figure 2. This report addresses the NEPA process for the three surface transportation modes – FHWA, FTA, and FRA. Surface transportation projects have unique NEPA requirements outlined in 23 U.S.C. § 139 (in 2015, the FAST Act brought the Federal Railroad Administration under these requirements). Operating Administrations and entities with NEPA assignment agreements (described below) act as lead agencies under NEPA. NEPA activities are largely carried out by project sponsors, including state DOTs and transit agencies, in coordination with the appropriate federal lead agency (FHWA, FTA, FRA, or NEPA assignment entity).

NEPA Assignment. Per 23 U.S.C. § 327, the Secretary of Transportation may assign federal NEPA responsibilities to a state, allowing a state to assume responsibilities for federal environmental review,



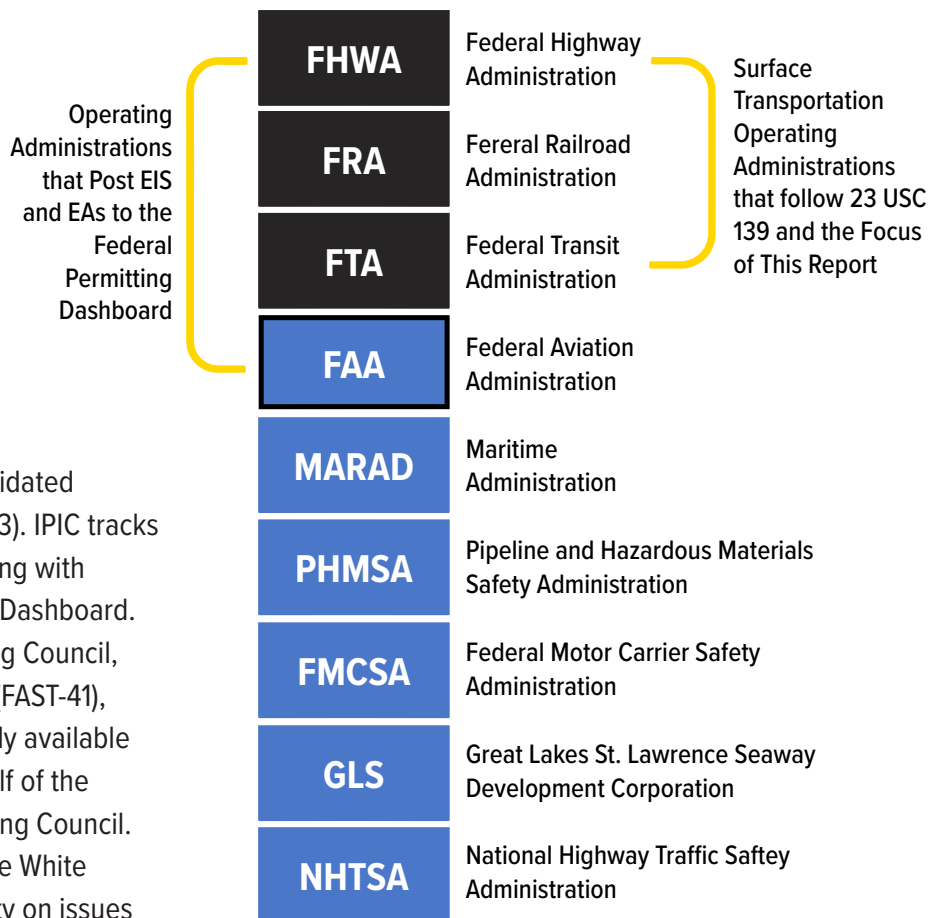
consultation, and compliance.

Currently the California High Speed Rail Authority and seven states have NEPA assignment authorities (Alaska, Arizona, California, Florida, Ohio, Texas, and Utah).

DOT's Infrastructure Permitting Improvement Center.

DOT's Infrastructure Permitting Improvement Center (IPIC) is housed within the Office of the Secretary of Transportation (OST). It was established by the Consolidated Appropriations Act, 2016 (Pub. L. 114-113). IPIC tracks transportation permitting by coordinating with Operating Administration staff and the Dashboard. IPIC collaborates with the the Permitting Council, established by Title 41 of the FAST Act (FAST-41), and manages and maintains the publicly available Federal Permitting Dashboard on behalf of the Federal Permitting Improvement Steering Council. IPIC also acts as the DOT's liaison to the White House Council on Environmental Quality on issues related to infrastructure and project delivery.

Figure 2: DOT Modal Operating Administrations



Within DOT, transportation environmental review activities are largely delegated to Operating Administrations and states with NEPA assignment. DOT's Operating Administrations and states with NEPA assignment track a higher number of EISs and EAs on the Permitting Dashboard than other federal agencies.

The Federal Permitting Dashboard

The Federal Permitting Dashboard (Dashboard) is an accessible website for federal agencies, project sponsors, and the public to track NEPA and permitting timelines for EISs and environmental assessments (EAs) (<https://www.permits.performance.gov/projects>). The federal lead agency is responsible for keeping the Dashboard updated. FHWA, FRA, FTA and FAA track timelines for EISs and EAs on the Dashboard. FHWA, FRA, and FTA are required to post surface transportation EISs and EAs to the Dashboard per 23 U.S.C. § 139(o) and DOT extended the requirement to FAA by policy.

The Dashboard provides government-wide transparency and accountability on permitting timelines and increases certainty for project sponsors and the public in a user-friendly format. Each project on the Dashboard has a permitting timetable which includes all federal permits, reviews, and authorizations and the responsible agency. The federal lead agency is responsible for keeping the Dashboard updated. An example of a project interface is shown in Figure 3 and an example of a timetable that combines NEPA and permitting timelines is shown in Figure 4.

A major function of the Dashboard is to track infrastructure projects per Title 41 of the Fixing America’s Surface Transportation Act (FAST-41) that have requested participation in the FAST-41 process. However, the Dashboard does not display all infrastructure projects requiring EAs or EISs.

Investments in the Federal Permitting Dashboard have increased transparency and agency accountability in the NEPA and permitting process. The Dashboard hosts years of NEPA and permitting data that can be analyzed to draw valuable insights into the process. Figure 6 is an example of interesting data that can be captured from the Dashboard.

Figure 3: Example of Project Data from Federal Permitting Dashboard

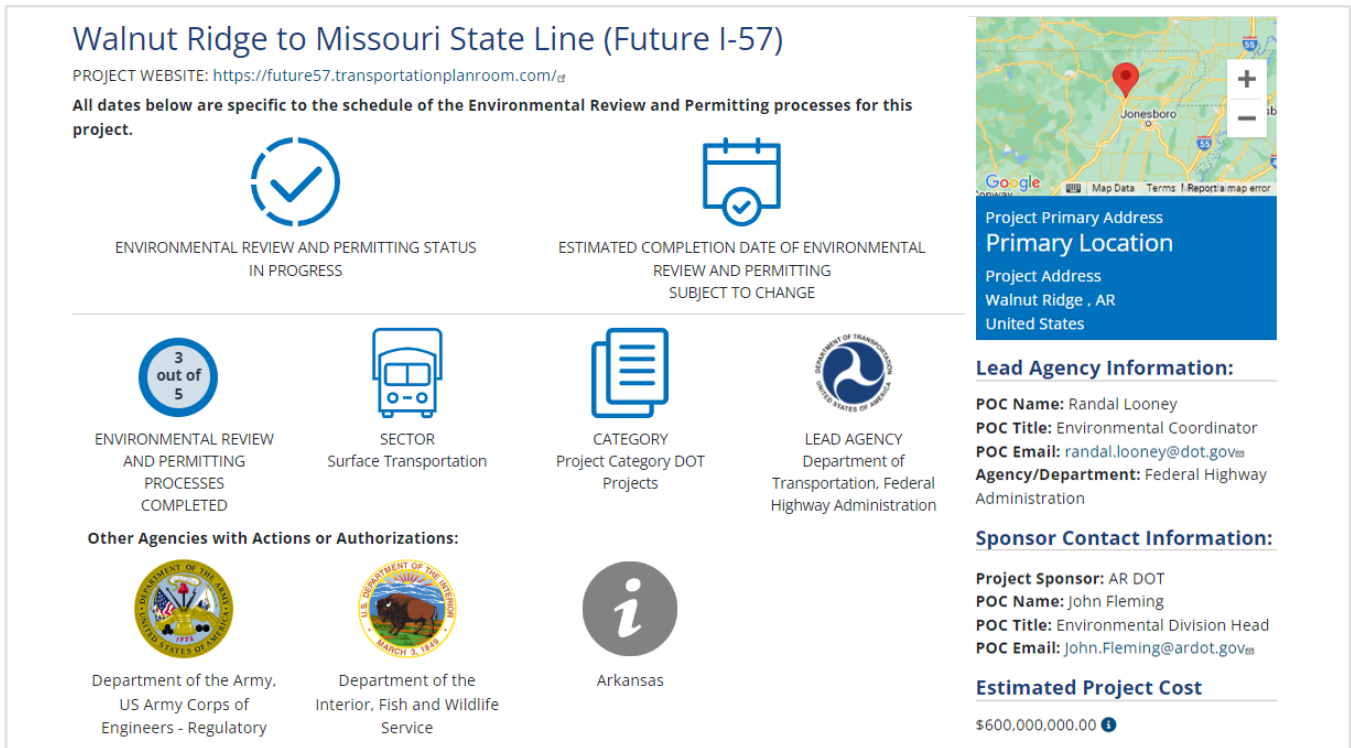
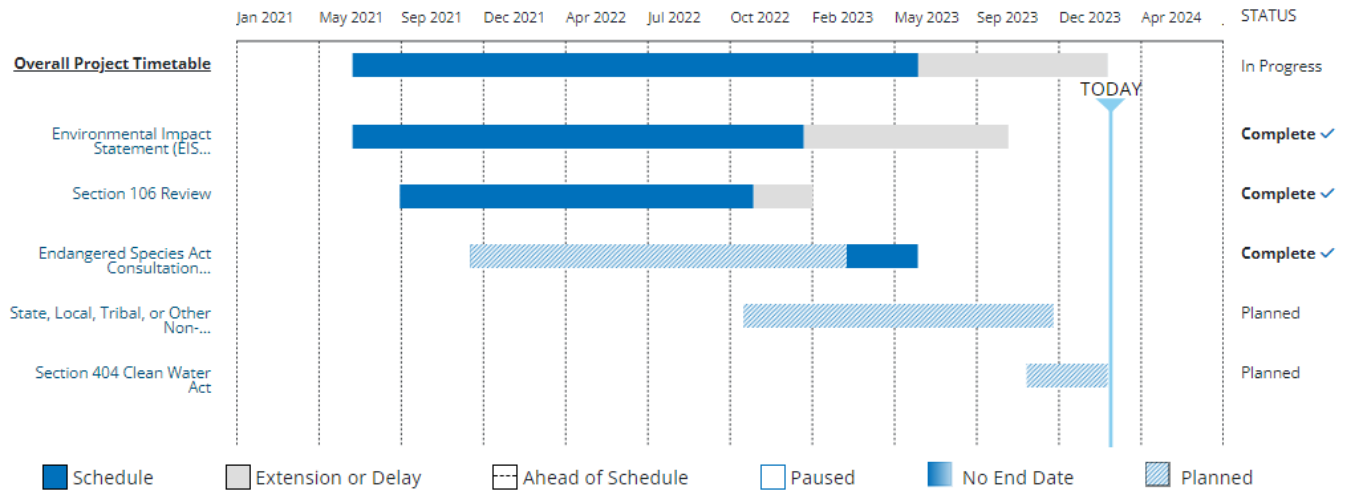


Figure 4: Example of Project Timetable from Permitting Dashboard



DOT tracks a higher number of projects on the Permitting Dashboard compared to other agencies. As shown in Table 1, DOT surface transportation Operating Administrations and NEPA assignment entities are actively tracking 148 EISs and EAs on the Dashboard, compared to 18 for non-DOT agencies. NEPA assignment is discussed below.

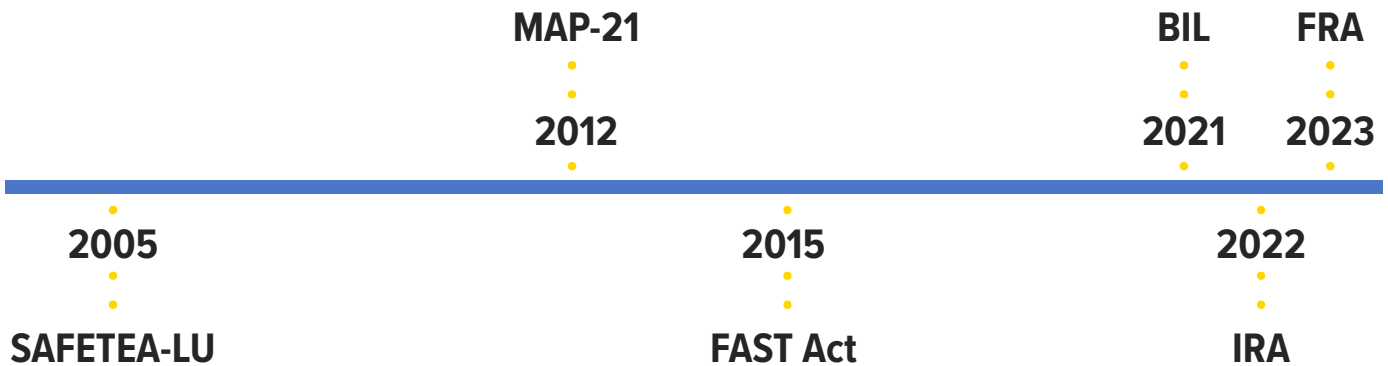
Table 1: In-Progress EISs and EAs on the Permitting Dashboard (as of October 18, 2023)

Lead Agency	EISs In Progress	EAs In Progress	Total
Surface Transportation Lead Agencies	30	118	148
FHWA	13	56	69
FRA	1	2	3
FTA	4	4	8
California High Speed Rail Authority	2	0	2
Alaska DOT	0	0	0
Arizona DOT	0	4	4
CalTrans	5	46	51
Florida DOT	0	2	2
Ohio DOT	0	0	0
Texas DOT	2	0	2
Utah DOT	3	4	7
FAA	1	29	30
All Other Federal Lead Agencies	15	3	18
Total	46	150	196

Congressional and Executive Actions Related to NEPA Process

The following section describes the major congressional activities and Executive actions related to improving NEPA implementation. Figure 5 shows surface transportation reauthorizations since 2005. After the passage of BIL, the Fiscal Responsibility Act amended NEPA. In addition, CEQ revised the NEPA implementing regulations in 2020, made targeted revisions to the regulations in 2022, and proposed additional changes in 2023.

Figure 5: Surface Transportation Reauthorization Timeline



Congressional mandates for accelerating project delivery have played a major role in reducing NEPA timelines over the past decades. DOT has made substantial progress by implementing provisions in congressional reauthorizations and other process improvements such as those listed in Table 2. Surface transportation EIS timelines have generally trended downward since congressional reform efforts started with SAFETEA-LU in 2005.

DOT's Progress with Surface Transportation NEPA to Date

SAFETEA-LU

In 2005, Congress enacted SAFETEA-LU, and formalized many DOT interventions designed to improve efficiency in transportation project development and delivery, specifically establishing a new environmental review process for surface transportation projects developed as EISs. SAFETEA-LU required agency coordination plans which have increased communication and coordination.

MAP-21

In 2012, MAP-21 created a streamlined and performance-based surface transportation program that accelerated the NEPA process associated with transportation project delivery and encouraged innovation through the increased use of CEs, programmatic approaches, and planning and environment linkages (PEL) throughout the NEPA process. MAP-21 also required lead agencies to combine the Final EIS and ROD to the maximum extent practicable, which can reduce timeframes by at least 30 days.

FAST Act

In 2015, the FAST Act expanded the efforts to accelerate the NEPA process associated with project delivery. The law built on the authorities and requirements in SAFETEA-LU, MAP-21, and specific initiatives – including those under the FHWA's Every Day Counts (EDC) program. The FAST Act required DOT to apply 23 U.S.C § 139 to railroad projects and also required comprehensive project NEPA process timeline reporting in the Federal Permitting Dashboard.

BIL

In 2021, the IIJA, also known as the Bipartisan Infrastructure Law and referred to in this report as BIL, was signed. The statute is a once in a generation investment in American infrastructure. In the statute, Congress codified the One Federal Decision framework outlined in EO 13807 (now rescinded) into 23 U.S.C. 139 and formalized the Infrastructure Permitting Improvement Center (IPIC), which is housed within the Office of the Secretary of Transportation.

IRA

In 2022, the Inflation Reduction Act (IRA) authorized \$100 million for DOT surface transportation modes to facilitate environmental review by providing guidance, technical assistance, and building environmental review capacity. Investments in additional data, technology, and staff capacity are essential components of improving the environmental review and permitting process without sacrificing environmental protections and equitable outcomes.

Fiscal Responsibility Act

In June 2023, the Fiscal Responsibility Act was signed. The Fiscal Responsibility Act made several changes to NEPA. CEQ has incorporated these changes into its proposed Bipartisan Permitting Reform Implementation Proposed Rule. Specifically, the Fiscal Responsibility Act amended the NEPA statute to extend provisions similar to those in BIL (applicable only to surface modes) to all federal agencies. Requirements include development of a unified project schedule and a single environmental document. The Fiscal Responsibility Act states that EISs shall be completed in 2 years and EAs in one year, with some extensions allowed.

Executive Actions

In addition to legislative requirements, DOT has made improvements to the environmental review process in response to Executive actions, including Executive Orders (EOs) 12898, 13274, and 13604, and a suite of Presidential Memoranda.

EIS completion timeframes have generally trended downwards over the past 17 years since SAFETEA-LU. Congressional actions related to NEPA streamlining such as those found in SAFETEA-LU, Moving Ahead for Progress in the 21st Century Act (MAP-21), and the FAST Act may have influenced this downward trend.

Data Reporting

Dashboard data can be used to draw current conclusions on EIS and EA timelines. Data can be reported using various methods:

By Start Date

Evaluating EIS and EA completion times by start date is helpful to identify effects of new requirements or provisions on timelines.

For EISs, the start date is the date of the Notice of Intent (NOI). For EAs, the start date is the date the lead agency determines an EA is required.

By Completion Date

Some reporting provisions, such as 23 U.S.C. § 157(b), require the analysis of the number of EISs and EAs completed within a Fiscal Year. This method captures projects with varying start dates, including legacy projects that may have been initiated many years ago and are just now reaching completion. While this is a convenient method to capture recently completed NEPA documents, it does not effectively reveal trends over time or the effect of streamlining provisions.

The completion date is defined as the Record of Decision (ROD) for an EIS and a Finding of No Significant Impact (FONSI) or the determination to prepare an EIS for an EA.

By Start and Completion Date

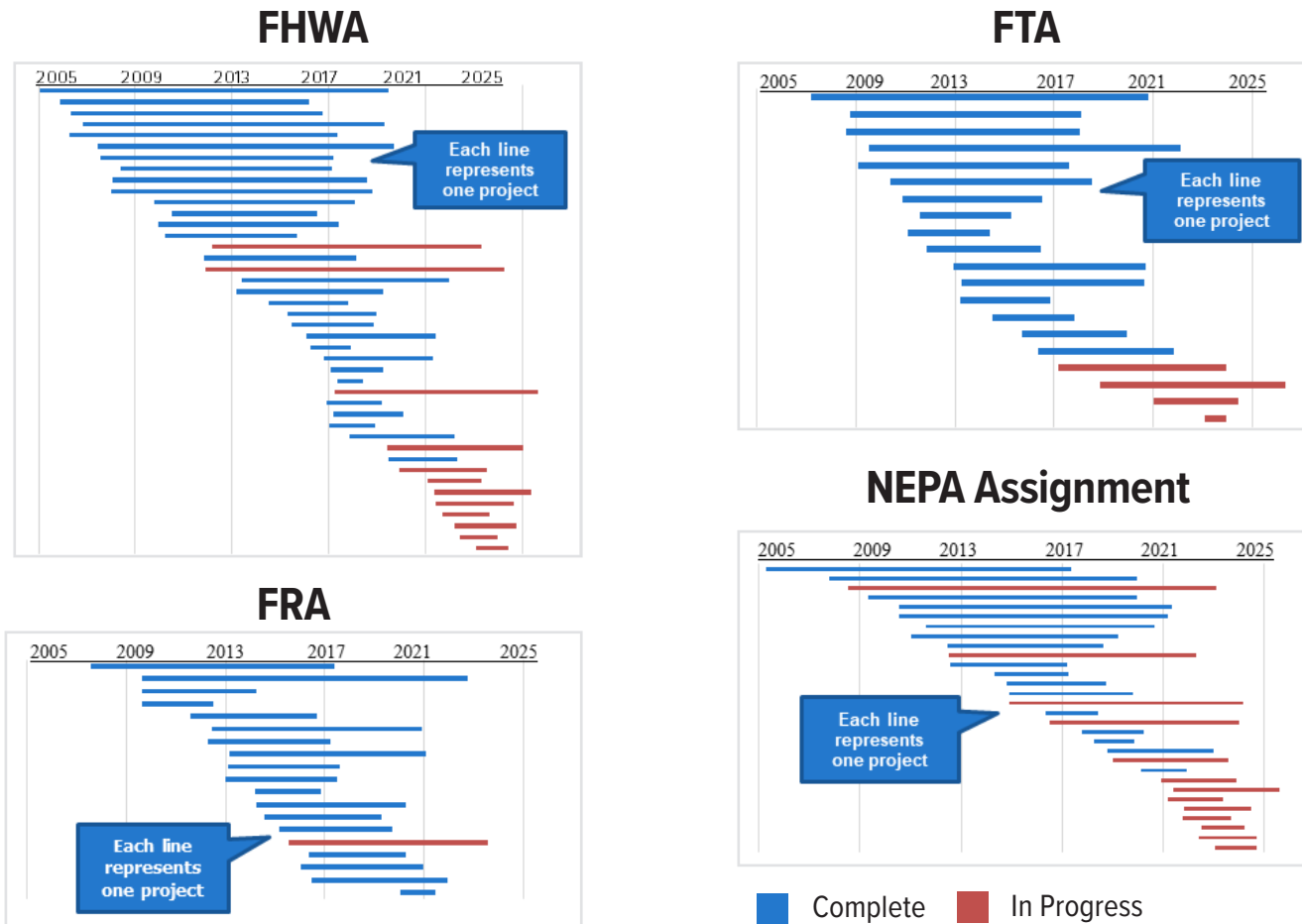
Figure 6 shows the start and completion dates for each EIS. These charts relay information more articulately than the other methods but are visually complex and do not render annual averages that are convenient to reference.

The following charts show duration of individual EISs on the Dashboard as of October 3, 2023. Each horizontal bar represents an EIS and the length of the bar represents the time required to complete the EIS. The EISs are placed in order by initiation date, beginning in 2005. Completed EISs are shown in blue and in-progress EISs are shown in red. For in-progress EISs (those shown in red), the end of the red bar indicates the target date for completion as of October 3, 2023, which may not be the actual date of completion if a schedule extension is issued. The FAST Act required projects initiated after June 1, 2016, to be posted on the Dashboard, therefore data prior to this date is not comprehensive.

The time to complete an EIS begins on the date on which the Notice of Intent is published in the Federal Register and ends on the date on which the Secretary issues a Record of Decision. There are four figures – one each for FHWA, FRA, FTA, and NEPA assignment entities – each indicate decreasing timelines for EISs.

Although EIS timelines are progressing in a positive direction, DOT continues to strategize on how to further improve the process. Additional improvements and actions remain underway and are detailed in the following sections of the report. DOT is well positioned to address existing and future barriers and further improve project delivery and environmental and community outcomes.

Figure 6: EIS Durations



The charts in Figure 6 show that EIS timelines for surface transportation projects have decreased since 2005. Process interventions take time to yield measurable results and the impact of provisions in past surface transportation reauthorizations (such as MAP-21 or FAST Act) and improvement activities (such as those listed in Table 2) are only now evident in the data. DOT believes that provisions in recent congressional actions (such as BIL One Federal Decision and the Fiscal Responsibility Act) and the recent and ongoing streamlining activities listed in Table 3 may result in further time reductions in the next few years.

DOT Reported to Congress in 2016 and 2017

On December 5, 2016, in accordance with Section 1317(c) 'Modernization of the Environmental Review Process' of the FAST Act, DOT submitted a report to Congress describing the results of an examination of ways to modernize, simplify, and improve DOT's implementation of NEPA (<https://www.transportation.gov/administrations/office-policy/fast-act-section-1317-modernization-environmental-review-process>).

The report states that DOT has succeeded in promoting concurrent rather than sequential reviews, and collaborative rather than independent decision-making; improving efficiency and timeliness of environmental review and permitting; and achieving better decisions and outcomes. Specific to technology advancement, DOT reported progress on the Permitting Dashboard and effective use of project tracking systems at FHWA (Project and Program Action Information System (PAPAI)) and FRA (Project Management Tracker (PMT)), and grant management software at FTA (Transit Award Management System (TrAMS)).

In 2017, DOT submitted another Report to Congress, as required by the Fiscal Year 2016 Senate Committee Report 114-75, the *Infrastructure Permitting Improvement Center Annual Report*. The report summarized the implementation of FAST Act environmental review and permitting process improvements and detailed collaboration with the FPISC and CEQ, which has continued since that time. Further, the report described planned Permitting Dashboard analysis and future enhancements, many of which have been completed, while further enhancements are still underway or under consideration.



As the implementation of NEPA has evolved over time through new legislation, EOs, and rulemakings, DOT has worked to harmonize and execute all environmental requirements, while not losing sight of its mission “to deliver the world’s leading transportation system, serving the American people and economy through safe, efficient, sustainable and equitable movement of people and goods.” As a result, DOT has become a leader in the federal community in innovations in environmental review and permitting.

WHERE IS DOT'S SURFACE TRANSPORTATION NEPA PROCESS TODAY?

DOT NEPA Process Evaluation – A Snapshot in Time

DOT took the requirement for this report as an opportunity to assess the current state of the NEPA practice for surface transportation projects (as of 2023). As a first step, DOT interviewed Operating Administration environmental staff and leadership responsible for transportation infrastructure NEPA processes. DOT also consulted with other federal agencies that review NEPA for transportation projects and/or issue permits or authorizations, consistent with the requirements for this report, through the interagency Transportation Rapid Response Team (TRRT). The interviews and consultations focused on understanding which NEPA practices and procedures are working well and what challenges within the NEPA review process remain.

Per the statutory requirement, DOT then:

8. Identified impediments to meeting the 23 U.S.C. § 139 requirements by reviewing existing practices, procedures, rules, regulations, and applicable laws.
9. Identified best practices, programmatic agreements, and potential changes to internal departmental procedures to facilitate efficient environmental reviews.
10. Analyzed whether additional funding will further DOT's pursuit of efficient and improved environmental review processes.

In addition, DOT reviewed the comments from the [Inflation Reduction Act Environmental Review Implementation Funds Request for Information](#) (RFI) that FHWA released on April 17, 2023. The RFI sought suggestions from the public and stakeholders on approaches to increase the efficiency of environmental reviews and potentially mitigate any delays. The RFI comment period closed June 1, 2023, with 26 responses received. The comments included common themes concerning issuing guidance and training, digital solutions, and funding liaisons (comments can be viewed on the docket for the RFI [here](#)).

The following sections summarize what DOT learned from the above activities.

Many best practices, procedures, and regulations are in place today and are working. For the current suite of actions that have been recently implemented or are in progress, the benefits are still emerging. Although progress has been made, more work could further improve timeframes while ensuring protections for communities and the environment.

Established Practice, Procedure, and Regulations - What Is Working

Through the evaluation process for this report, DOT confirmed what best practices and procedures are known to be working. This section briefly discusses these best practices and procedures and sets the context for those that can be expanded.

Table 2. DOT's Established and Effective Practices, Procedures, and Regulations

Established Practice, Procedure, or Regulation	Description
Liaisons	<p>State and federal permitting and resource agencies do not always have sufficient staffing to support reviews for expedited NEPA and permitting schedules. Transportation liaisons are personnel funded by DOT, State DOTs, or other project sponsors and housed in federal or state resource and regulatory agencies that facilitate the environmental review and permitting process for transportation projects. Statutory authority to fund liaison positions largely comes from SAFETEA-LU in 2005 and was expanded in the FAST Act in 2015, though other authorities can also be used (e.g., 33 U.S.C. § 2352).</p> <p>Funded liaison positions have been broadly effective. Operating Administrations and resource/regulatory agencies that review transportation projects both identified these liaison positions as critical and as having markedly improved project delivery, especially on complex projects. The July 2019 DOT “Study on the Effectiveness and Benefits of Transportation Liaisons” concluded that “Liaisons create efficiencies and reduce the environmental review timelines primarily by expediting resource agency reviews and providing more predictability and consistency for the State DOTs”.</p> <p>The US Fish and Wildlife Service (FWS) staffs approximately 60 liaison positions nationwide for transportation projects, the majority of whom focus on highway projects. The US Army Corps of Engineers (USACE) had liaison agreements with 30 state DOTs as of December 2023, supporting approximately 31 full time equivalent staff liaisons. Additionally, FTA grant recipients provide funding for internal FTA liaisons who support environmental review activities.</p>
Programmatic Agreements	<p>Programmatic agreements between an environmental resource/regulatory agency and a state DOT, or other NEPA lead agency, establish a streamlined process for environmental consultations and permits for commonly encountered project types within the confines of the law. The term “programmatic agreements” also refers to Memorandums of Understanding that set a permitting schedule for a complex project. Programmatic agreements can standardize and streamline the process for a commonly required permit and give project sponsors predictability and consistency. They are especially impactful for work related to Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act (ESA), and Section 404 of the Clean Water Act. For example, nine Section 404/NEPA merger agreements have been created between state DOTs and USACE districts that outline how a Section 404 application should align with the EIS process to streamline the process.</p> <p>Operating Administrations and resource or regulatory agencies indicated that these agreements markedly improve project delivery for complex projects that have multiple approving agencies.</p>

Established Practice, Procedure, or Regulation	Description
Permitting Dashboard	The Federal Permitting Dashboard is the government-wide system for publicly tracking the environmental review and permitting process for infrastructure projects. The Dashboard increases transparency and accountability for meeting permitting timelines for reviewing agencies, project sponsors, stakeholders, and the public. See above section for more details on the Dashboard.
Pre-NOI Planning and PEL	A Planning and Environment Linkages (PEL) approach allows the use of relevant information from, and decisions made during, the transportation planning process in the NEPA process. This approach allows agencies to complete important preparatory work before issuing a NOI. Examples of effective activities that may be undertaken before initiating NEPA are: developing the purpose and need for the project, engaging stakeholders, collecting data, and identifying alternatives and environmental issues. The approach is described on the FHWA Planning and Environment Linkages webpage. FHWA and FTA originally developed the PEL approach to reduce duplicating planning efforts during the NEPA process. FRA does not currently have an equivalent guidance document or statutory or regulatory planning process. However, FRA will implement a similar approach to integrating the planning and environmental review processes, incorporating robust public engagement and agency coordination, in its Corridor Identification and Development Program (Corridor ID Program).
Combined FEIS/ROD	MAP-21 authorized surface transportation modes to use combined final environmental impact statements/records of decision (FEIS/RODs) to the maximum extent practicable. The streamlining process combines the two documents and eliminates the 30-day waiting period between publication of the FEIS and issuance of the ROD when not prohibited by State law.
Combined FHWA, FTA, FRA Regulations	The FAST Act required that the Secretary apply the environmental review requirements in 23 U.S.C. § 139 to railroad projects to the greatest extent feasible. In response to that and other FAST Act provisions, FRA decided to join the FHWA/FTA NEPA procedures at 23 CFR part 771
CE Development	Developing CEs for appropriate types of projects, implementing increased flexibility for sharing CEs, and increasing use of programmatic approaches to CE preparation and approval has streamlined compliance with NEPA for smaller projects. New CE categories have been developed with the implementation of MAP-21 and other transportation authorizations.

Established Practice, Procedure, or Regulation	Description
Technical Assistance	<p>DOT provides and contributes to technical assistance through a number of programs, including FHWA’s federal-aid essentials for local public agencies, tutorials on Section 4(f) and Section 106, FTA’s resources on environmental training and technical assistance, and technical assistance related to DOT’s grant programs. The National Highway Institute and National Transit Institute also offer courses and instruction. Operating Administrations, especially FTA, noted that providing technical assistance to less experienced parties, who had limited experience with NEPA, significantly improved outcomes. This is particularly the case in the planning phase and prior to the Notice of Intent for an EIS. FTA project sponsors have also been successful in using the 23 U.S.C. § 139(j) provision which allows them to use project funds to direct hire contractors, or dedicated staff, to expedite and improve the planning and NEPA environmental review and permitting processes.</p>
Eco-Logical – A Landscape-Scale Approach to Infrastructure Development	<p>Eco-Logical is an approach to infrastructure development that considers infrastructure, mitigation, and conservation at the landscape scale prior to the formal transportation planning process. The premise of this approach is that regions can identify areas that are environmentally sensitive, ripe for mitigation, and appropriate for infrastructure development and improvement early, and then can use this information to carry forward project development and delivery. This approach was developed by eight federal agencies and formalized through a Memorandum of Understanding (MOU). In addition, each of these agencies cultivated supportive programs that aim to address environmental considerations pre-NOI.</p>
Red Book Guidance (Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects)	<p>The Red Book is a “how to” for synchronizing NEPA and other regulatory reviews for federal agencies that review permits and environmental documents, and federal, state, and local agencies that fund or develop major transportation and other infrastructure projects. Increasing the use of environmental review synchronization yields more effective and efficient regulatory reviews that result in projects with reduced impacts to the environment as well as savings of time and money. The handbook also includes best practices such as the use of transportation liaisons, innovative mitigation practices, and communication technology. Synchronization encourages early application during the draft EIS process, helping to reduce delays in the environmental review and permitting process.</p>
Community Engagement	<p>Public involvement throughout a project’s lifecycle is a requirement of NEPA that helps projects come to life faster and to better meet the needs of the community. DOT developed Promising Practices for Meaningful Public Involvement in Transportation Decision-Making to help funding recipients meaningfully involve the public in various stages of transportation decision-making and build their organizational capacity to improve public engagement.</p>

Current Suite of Actions Recently Completed or In Process

Implementing the Biden-Harris Permitting Action Plan (May 2022). The [Biden-Harris Permitting Action Plan](#) (May 2022) and [Permitting Action Plan Implementation Guidance \(March 2023\)](#) outline strategies to further strengthen and accelerate the environmental review and permitting processes to ensure infrastructure projects are delivered on time and on budget. The Plan is built around five strategies:

1. Enhancing early cross-agency coordination,
2. Setting and tracking timelines,
3. Ensuring meaningful public engagement,
4. Improving support and technical assistance for project sponsors and
5. Providing additional resources for permitting activities.

In response to directives in the [Biden-Harris Permitting Action Plan](#), DOT prepared and is implementing a suite of actions to improve the permitting process, as shown in Table 3. Because these actions have only recently been implemented or are in progress, the benefits of the actions are yet to be seen. Improving the NEPA process is a priority and DOT, and its Operating Administrations, are investing substantial time and energy into these actions.

DOT believes these current investments into the NEPA process will yield further time savings and efficiencies that will be seen in projects in the coming years.

Table 3: DOT's Current Suite of Streamlining Actions Recently Completed or In-Progress

Action	Description
Liaison Guidance Extending Practice to All Operating Administrations	DOT released liaison guidance in October 2022 pursuant to FAST Act provisions and 49 U.S.C. § 307, "Improving State and Federal agency engagement in environmental reviews," to extend the liaison program to public entities receiving funding under any DOT authority.
Dashboard Enhancements	DOT continues to partner with FPISC to enhance the Permitting Dashboard to improve transparency and accountability across agencies. Most recently, DOT is updating the reporting standards for Operating Administrations that post on the Dashboard. DOT's Dashboard reporting standards, which are based on the Sec. 139 mandate, require that project information, including target and actual project milestone dates, be posted to the Dashboard, and updated on a recurring basis for projects requiring an EA or an EIS.
Re-Initiation of the Transportation Rapid Response Team (TRRT)	DOT re-initiated the Transportation Rapid Response Team in January 2022. Co-chaired by DOT and CEQ, the Transportation Rapid Response Team is a forum for DOT to elevate and resolve issues with agency partners on large, complex, or significant transportation projects. It includes senior NEPA/permitting subject matter experts from agencies reviewing environmental permitting documents such as US Army Corps of Engineers, US Fish and Wildlife Service, US Coast Guard, National Marine Fisheries Service, and Department of the Interior.

Action	Description
Metrics and Performance Accountability Tracking	DOT recently implemented new procedures and metrics to track performance on schedule and permit requirements of BIL. DOT uses the Dashboard to track the time taken to complete the environmental review and permitting process. DOT tracks major milestones for EISs, EAs, and associated federal permits. Examples of milestones include publishing a Draft EIS, completing a Section 7 Endangered Species Act consultation with the US Fish and Wildlife Service, or initiating a Section 106 Historic Preservation consultation with a state historic preservation office.
Implementation of BIL 23 U.S.C. § 139 Amendments	DOT has implemented the BIL provisions that amended 23 U.S.C. § 139. BIL amendments are being applied to projects initiated after October 1, 2021 (the effective date). Per these requirements and recent requirements of the Fiscal Responsibility Act, and to the extent practicable, Operating Administrations establish a two-year schedule for EISs. FHWA/FRA/FTA prepared FAQs on BIL implementation available at: https://www.transit.dot.gov/regulations-and-programs/environmental-programs/environmental-review-provisions-bilijja-questions
Planned updates to NEPA Implementing Procedures	DOT and its Operating Administrations are reviewing their NEPA implementing procedures to ensure they can quickly update them if needed once CEQ Regulations are finalized.
Maximizing Use of CEs	Pursuant to the CE borrowing provision codified in the Fiscal Responsibility Act, DOT published a notice in August 2023 to allow use of a Department of Energy's CE for electric vehicle charging stations. DOT was one of the first agencies to use this new provision of the Fiscal Responsibility Act.

Example Project: Southeast Gateway Line

Project Background

FTA serves as a federal lead agency for LA Metro's proposal to construct a 14.5-mile light rail transit line from Slauson/A Line in unincorporated Florence-Firestone to Pioneer Station in the City of Artesia to connect downtown Los Angeles to southeast Los Angeles County. The Final EIS is expected in Summer 2024.

Project Purpose

The project will provide alternatives to driving and create more access to economic opportunities for residents.

Best Practices in

LA Metro made engagement with the community a priority for the project by developing a comprehensive outreach program that provides project stakeholders with the necessary tools and resources to be educated and informed in a timely manner and enabling them to provide valuable input at key project milestones. Along with the draft EIS, LA Metro developed an online [interactive tool](#) for stakeholders to view maps and learn about the proposed project and its alternatives. The robust public involvement and feedback received on the draft EIS contributed to LA Metro's decision to revise the project design to avoid adverse impacts to nearby communities with environmental justice concerns. These efforts contributed to the determination and selection of the locally preferred alternative.

WHAT IMPEDIMENTS REMAIN TO AN EFFICIENT NEPA PROCESS?

As directed in BIL, DOT identified impediments to an efficient NEPA process (specifically in meeting the time-limit requirements in 23 U.S.C. § 139) by reviewing existing practices, procedures, rules, regulations, and applicable laws. Despite the progress that has been made over the past decades and DOT's current emphasis on NEPA streamlining, impediments remain to meeting requirements of 23 U.S.C. § 139. This section focuses on those impediments that offer opportunities for further improved efficiency. Additional challenges that are outside DOT's immediate control, or that do not offer clear opportunities for improved efficiencies, are also discussed.

REQUIREMENTS UNDER 23 U.S.C. § 139

The requirements under [23 U.S.C. § 139](#) are aimed at making the NEPA process more efficient and expedient for surface transportation EISs.³ Although EIS projects are often the highest visibility projects and have the greatest impacts on communities (positive and negative), categorical exclusions (CE) account for more than 99% of DOT NEPA actions.

Example requirements from 23 U.S.C. § 139 are:

- “[T]he lead agency shall develop environmental documents sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project...”
- “Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the lead agency shall establish a plan for coordinating public and agency participation.”
- “Any issue resolved by the lead agency with the concurrence of participating agencies may not be reconsidered unless significant new information or circumstances arise.”
- “[T]he lead agency shall develop...a schedule for the major project that is consistent with an agency average of not more than 2 years...”
- “[A]ll authorization decisions necessary for the construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project.”
- “[T]he text...of an environmental impact statement for a project shall be 200 pages or fewer.”

³ 23 U.S.C. § 139 procedures may be applied, as requested by a project sponsor and to the extent determined appropriate by the Secretary of Transportation, to other projects for which an environmental document is prepared pursuant to NEPA.

Two-Year EIS Target

One of the most prominent requirements of 23 U.S.C. § 139 is meeting an agency average of not more than two years for major project EISs. The Fiscal Responsibility Act further strengthened schedule accountability by requiring that all EISs be completed in two years, with provisions for timeline extensions. Meeting this requirement entails a range of thoughtful planning and engagement activities before the NEPA process kicks off with the NOI in addition to efficiencies throughout the process.

Preparation of an EIS is required for projects with significant environmental impacts, which often applies to large, complex projects. Smaller projects where the significance of environmental impacts is uncertain, or without significant environmental impacts, are handled through EAs and CEs. Factors affecting the schedule for an EIS include, but are not limited to:

- the degree of community and political support,
- level of funding for the agencies participating in the EIS,
- number of federal/state/local approvals needed,

- sophistication of project sponsor and consultant team,
- number of project alternatives, and
- number of design changes during the EIS process.

For projects with several of these schedule factors it may be a challenge to complete an EIS in two years. DOT and its Operating Administrations have developed strategies to mitigate these schedule factors, and many are highlighted in Tables 2 and 3; additional strategies identified through this process as well as factors outside the NEPA process are discussed in the next section.

Input from Operating Administrations and Reviewing Agencies

Table 4 summarizes some of the feedback DOT obtained from Operating Administrations and reviewing agencies on impediments they have experienced in the development, review, and permitting of transportation NEPA projects.



Table 4: Feedback from Operating Administrations and Reviewing Agencies

Examples of Challenges from Operating Administrations	Examples of Challenges from Reviewing Agencies
<p>Not all agencies and projects have access to liaisons. In some cases, the lack of stable, multi-year funding programs hampers agencies' ability to establish liaison positions.</p> <p>Determining applicable requirements can be complicated due to the varying regulations, lag time between final rules and implementing guidance, differing Operating Administration processes/procedures, or disparate or out of date webpages/links for rules/guidance.</p> <p>Collaborative, cloud-based and interactive tools are not easily accessible or available for cross-agency use.</p> <p>Coordination and permitting under Section 106 of the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Section 404 of the Clean Water Act authorizations require substantial agency time.</p> <p>State and local agencies are not required to abide by Section 139 timeframes for state/local permits/approvals needed on a project.</p> <p>PEL approaches have not been consistently adopted across DOT modes and project sponsors nationwide. Many of the provisions which codify Planning and Environmental Linkages are most clearly applicable to FHWA and FTA (included in Title 23).</p> <p>Complexity of projects and decisions and the variability of project type, size, and location affect how quickly a comprehensive NEPA review can be carried out.</p> <p>Grantees and/or contractors sometimes lack the experience or capability to complete a thorough EA or EIS.</p> <p>Agency turnover may impact review timelines.</p>	<p>Not all agencies and projects currently have access to liaisons, often due to budget limitations or because the agency's projects are too small to warrant a dedicated liaison.</p> <p>Programmatic agreements/MOUs are not complete or comprehensive.</p> <p>Agreed-upon permitting timetable including state critical path milestones are not always present on the project or in a programmatic agreement.</p> <p>There is a lag between the time final rules are passed and programmatic agreements are updated to reflect the most recent rules.</p> <p>Reviewing agencies may not fully understand DOT-specific rules, procedures, definitions (23 U.S.C. § 139, major projects).</p> <p>There is no centralized place for DOT NEPA rules/guidance.</p> <p>Reviewing agencies do not fully understand the Design-Build process which is commonly used in transportation projects.</p> <p>A shortage of mitigation credits in the project area may lead to delays because the project sponsor must identify and acquire property for stream and/or wetland mitigation. In some cases, this may delay the USACE ability to issue a permit decision within 90 days of the ROD.</p> <p>USACE is challenged to meet the 90-day permit deadline following the ROD for permit applications submitted late in the NEPA process.</p>

Impediments that Offer Opportunities to Further Accelerate Timelines

IMPEDIMENT 1: THE LIAISON PROGRAM IS SUCCESSFUL BUT NOT ALL AGENCIES AND PROJECTS HAVE ACCESS TO LIAISONS.

DOT obtained feedback from agencies (including US Fish and Wildlife Service, US Army Corps of Engineers, US Coast Guard) that the liaison program is successful and that more widespread adoption to more geographies, other DOT modes, and smaller projects would be beneficial. The liaison program is identified as a best practice/procedure in Table 2. This program relies on State DOTs or other recipients of DOT funding to voluntarily choose to dedicate funding to establish a liaison agreement within their State with resource agencies, where there is need. Rail and transit projects, as well as smaller direct-recipient projects that may not warrant a dedicated liaison, would benefit from access to liaisons.

IMPEDIMENT 2: PROGRAMMATIC AGREEMENTS ARE EFFECTIVE, BUT SOME ARE OUTDATED, AND MORE COVERAGE IS NEEDED.

DOT obtained feedback from environmental resource agencies that programmatic agreements between a state DOT or other NEPA lead agency and the environmental resources agency, particularly those that integrate the NEPA and permitting processes, are effective. Programmatic agreements are identified as a best practice/procedure in Table 2. However, current agreements need to be updated to reflect recent regulatory changes and additional agreements are needed to cover more modes, resources, and geographies. These agreements can be very specific and need to be maintained, updated, and renewed when they lapse or expire. Updating them can be resource intensive, and agencies and State DOTs often do not have the staff availability to develop or update them.

In 2015, FHWA reported that there were more than 500 programmatic agreements in place across the country among transportation departments and partner agencies (https://www.fhwa.dot.gov/innovation/everydaycounts/reports/edc2_finalreport.pdf). The American Association of State Highway Transportation Officials (AASHTO) Center for Environmental Excellence has an online public database of over 100 programmatic agreements; however, more recent agreements may not be reflected in the database. An updated resource to bring more awareness and understanding of existing agreements could help project sponsors more quickly identify agreements applicable to their project in addition to assisting in identifying gaps where new agreements are needed.

IMPEDIMENT 3: NEPA DOCUMENTS DO NOT TAKE ADVANTAGE OF MODERN WEB-BASED, INTERACTIVE TOOLS.

Modern, web-based interactive platforms are readily available; however, these digital tools are not consistently used. EIS documents can be lengthy and complex, making it difficult for the public and reviewing agencies to quickly find and understand relevant information. The standard EIS presentation is a PDF or series of PDFs which are not easy to read on a mobile device. Interactive formats are easier to navigate and more engaging, especially those that use interactive maps that allow the reader to zoom in and turn layers on and off. The ability to read a NEPA document, interact with a map, and comment on a single mobile device screen would increase the accessibility for anyone reviewing the document, including those without computers or high-speed internet and historically under-represented populations.

Interactive, mobile-friendly documents combined with shorter documents (required by recent legislation), plain language, and easy translation features will allow a broader demographic to read and comment on NEPA documents, including historically under-represented populations.

Web-based platforms can also be used to streamline the internal review process. The process to develop an EIS entails numerous discrete documents and maps that are developed and reviewed by many staff at multiple agencies (lead agencies, consultants, cooperating agencies). Web-based platforms, particularly interagency workflow management and document-review tools, can consolidate all information and documents in one place and allow for concurrent reviewing, replacing the time-consuming comment/response table format. Collaborating in real time can save time and increase the quality of documents. However, agencies can face firewalls or other barriers such as licensing in order to use these platforms across agencies.



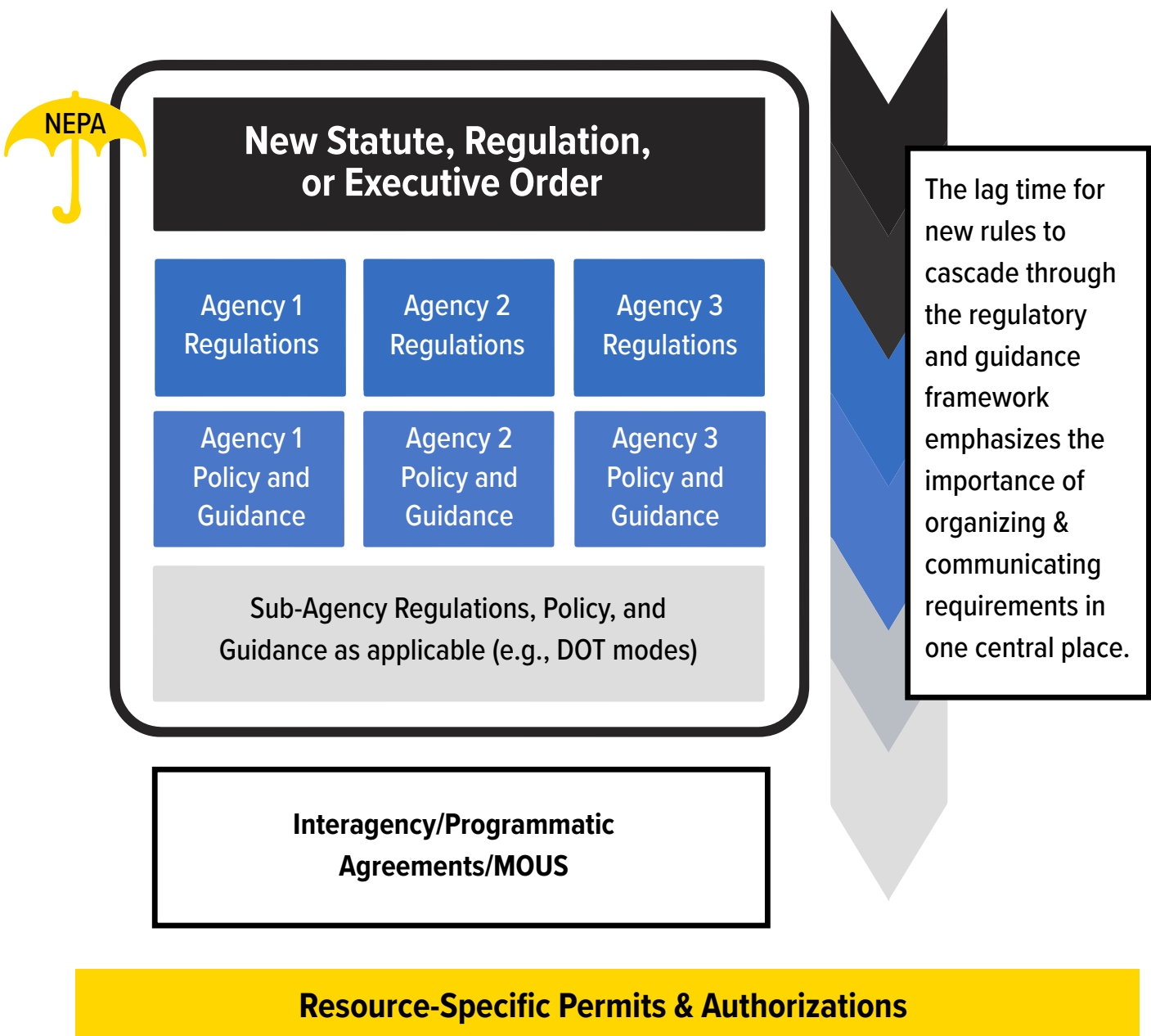
Platforms such as Microsoft Office 365/ SharePoint, Google Workspace, or ESRI ArcGIS Online interactive maps are readily available. Many additional interactive and collaborative platforms are coming to market both private and public. Some platforms are best used at the onset of the project and others may be incorporated at any time during the project lifecycle.

Note that the Federal Risk and Authorization Management Program (FedRAMP®) provides a consistent approach to security authorizations for web-based platforms. There are over 300 such platforms currently FedRAMP authorized that are available for project use. Each agency determines which they will use based on their unique needs and security risks.

**IMPEDIMENT 4:
IDENTIFYING APPLICABLE REGULATORY AND GUIDANCE REQUIREMENTS ACROSS
MULTIPLE AGENCIES CAN BE DIFFICULT AND THERE IS NO ONE-STOP, USER-
FRIENDLY INTERFACE TO EASILY IDENTIFY APPLICABLE REGULATORY AND GUIDANCE
REQUIREMENTS.**

Agencies identified lag time for new rules and requirements to cascade through agencies rules, guidance, and programmatic agreements as a challenge. Related issues include processes and procedures that differ between agencies and a lack of a one-stop shop for current guidance and regulations.

Figure 7: Framework for NEPA Rules, Guidance, and Permits



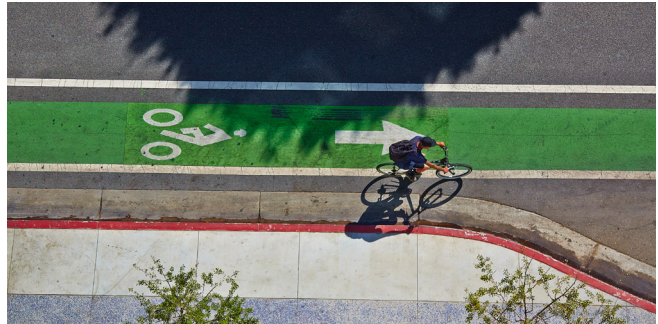
IMPEDIMENT 5: COMPLEX PROJECTS MAY REQUIRE ADDITIONAL SUPPORT TO STAY ON TRACK.

With the substantial increase in project volume, additional resources may be needed for specific projects, especially those that are complicated or controversial. In addition, project sponsors who are unfamiliar with the NEPA process often require additional support and more time to navigate the NEPA process.

IMPEDIMENT 6: INSUFFICIENT USE OF PRE-NOTICE OF INTENT (NOI) PLANNING AND PLANNING AND ENVIRONMENT LINKAGES (PEL) PROCESSES

Robust planning and engagement before the NEPA process begins is identified as a best practice in Table 2. However, not all State DOTs, Operating Administrations, or project sponsors have adopted pre-NEPA processes and/or early planning and environment linkages approaches. The application of PEL is still at the discretion of the project sponsor. Strategies like PEL and ecosystem-scale planning can lead to a better sense of the human and natural environmental landscape prior to issuing an NOI, allowing for more expeditious development and consideration of alternatives, as well as increased avoidance of resources and better awareness of mitigation opportunities.

Increasing the consideration of environmental issues either through the planning process (such as in PEL), or through other pre-planning efforts that precede the initiation of NEPA can shorten the NEPA timeline after the NEPA process begins. Operating Administrations and stakeholders that have implemented PEL and other types of pre-NEPA planning programs report improved processes as well as better environmental and community outcomes.



IMPEDIMENT 7: INADEQUATE RESOURCES AMONG APPLICANTS AND RESOURCE / REGULATORY AGENCIES.

Many nontraditional grantees, including local governments and Tribes, lack sufficient knowledge and experience to conduct environmental reviews. Some eligible recipients lack the technical capacity or resources to utilize electronic assessment, documentation, and permitting strategies, and/or electronic collaboration tools, potentially delaying or complicating environmental reviews, permitting, and engagement efforts. Documents that are not properly written, or are missing important elements, lead to lengthy review processes with additional back and forth between project proponents and federal agency staff. DOT modal resources may not be able to keep up with the demand for assistance. In addition, as described in Impediment 1, some Federal permitting agencies, state, and local project sponsors need additional resources to complete timely project reviews and permitting.

Additional Challenges

Shifting political and regional priorities and visions for the projects, funding constraints, and other factors outside of NEPA can often delay the overall project and the NEPA process. In some cases, the project sponsor requests that a lead agency initiate NEPA to demonstrate progress to external parties, even if funding is not secured. Often these types of projects result in longer NEPA durations. These broader priority shifts often lead to paused or unclear NEPA process statuses. When these types of delays occur after the issuance of an NOI, delays are often inappropriately attributed to NEPA. The Dashboard has the capability to capture these types of delays in the form of a pause in the overall project status. Further, Operating Administrations often work directly with project sponsors in this position to advance the NEPA process for the project using many of the best practices recommended in this report.

One example of a specific challenge to meeting a two-year timeframe is stakeholder engagement prior to the initiation of the EIS. A recommended industry-wide practice is for project sponsors and lead agencies to involve the public during the planning phase of a project prior to initiating NEPA. Completing EISs within a two-year timeframe generally requires an understanding of stakeholders and their concerns before the NOI is issued. Agencies can improve stakeholder engagement by conducting proactive outreach prior to formal scoping. When new stakeholder concerns raised during the EIS process result in substantial design changes or new alternatives, it becomes difficult to complete the required analysis in a two-year timeframe.



WHAT STRATEGIES CAN DOT IMPLEMENT TO ACCELERATE THE NEPA PROCESS?

DOT identified strategies that encompass best practices, programmatic agreements, and potential changes to internal departmental procedures to facilitate an efficient NEPA process and meet requirements in 23 U.S.C. § 139. Some of the strategies build on past best practices, procedures, or regulations (e.g., liaison program and programmatic agreements), and some are new to DOT (e.g., interactive, web-based platforms, concierge program, and consolidated NEPA rules and guidance). This section discusses each strategy plus planned use of the \$100 million in IRA funding that DOT will use to both complement and integrate these strategies into standard agency practice.

DOT identified strategies to address remaining impediments and further facilitate an efficient NEPA process. Some of the strategies complement existing best practices, procedures, or regulations and some are new.

STRATEGY 1: BROADEN THE LIAISON PROGRAM

Impediment: The liaison program is successful but not all agencies and projects have access to liaisons.

Existing liaison positions and agreements do not cover all geographic areas and DOT modes. DOT is currently evaluating efforts to expand the liaison program, and fund liaisons in areas of the country where the volume of project reviews exceeds current agency capacity.

A July 2019 study of the effectiveness and benefits of the transportation liaison program found that states that use transportation liaisons found these positions accelerate project delivery.⁴

STRATEGY 2: CATALOG, UPDATE, AND IMPLEMENT MORE PROGRAMMATIC AGREEMENTS

Impediment: Programmatic agreements are effective, but some are outdated, and more coverage is needed.

DOT is evaluating a strategic approach to inventorying existing agreements and identifying outdated agreements and gaps in geographies, modes, and environmental issues. This approach will help prioritize resources to those areas with the highest need. Expanded awareness of programmatic agreements through a centralized catalog would help project sponsors to efficiently identify those applicable to their project. Sharing existing agreements across the modal administrations and with State DOTs would aid other entities in creating similar programmatic agreements or to expand the existing agreements to include a broader range of projects, geographic areas, and/or other modal administrations.

New and updated agreements that include an agreed-upon permitting timetable, critical path milestones, and any state permits/authorizations will be most effective. Templates for the most frequently used types of programmatic agreements that include these elements may provide for efficiencies in the effort.

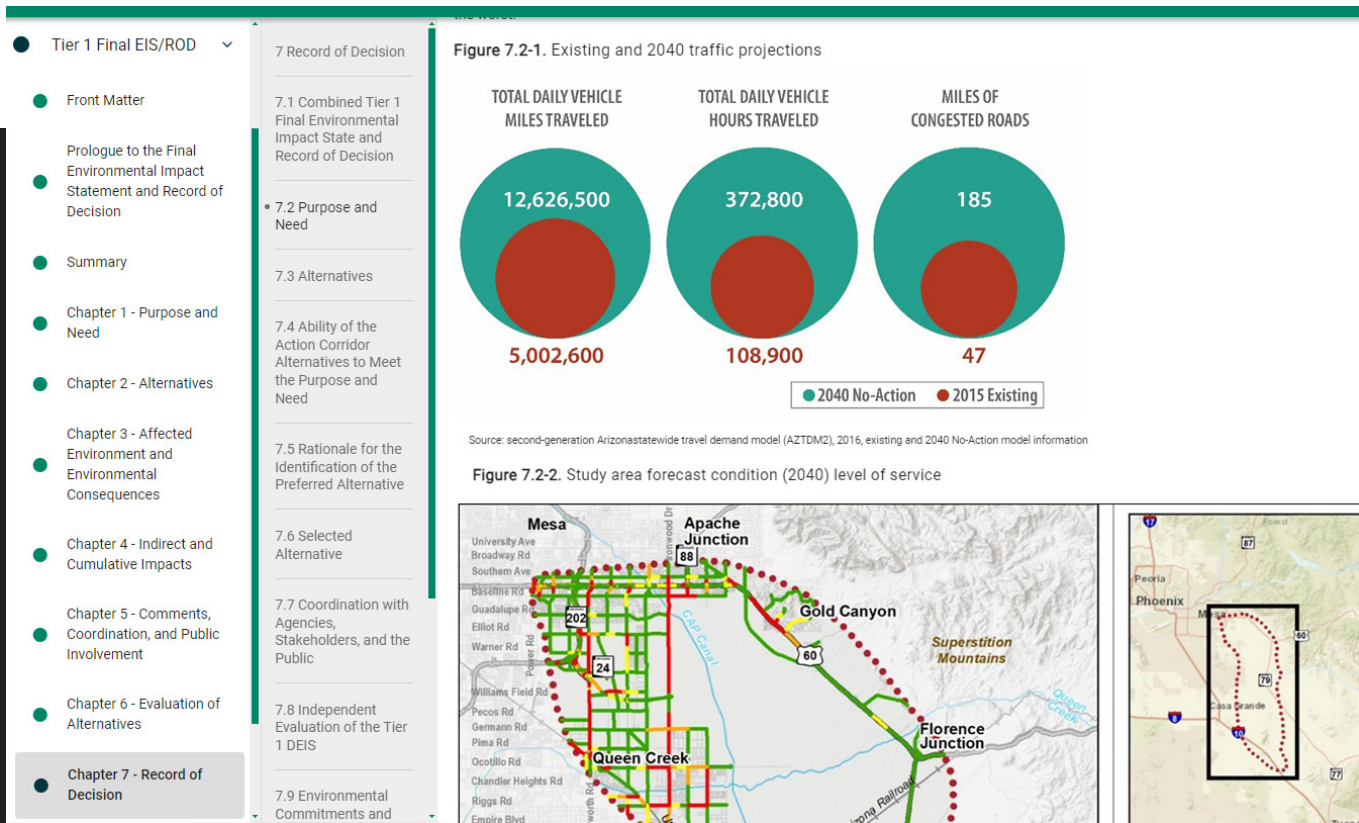
⁴ https://www.environment.fhwa.dot.gov/env_initiatives/liaisonCOP/documents/Liaison_Effectiveness_Study.pdf

STRATEGY 3: ENCOURAGE INTERACTIVE, WEB-BASED PLATFORMS FOR NEPA DOCUMENTS

Impediment: NEPA documents do not take advantage of modern web-based, interactive tools.

DOT is exploring ways to make NEPA documents more accessible and easier to navigate through readily accessible, interactive, web-based platforms that scale to mobile devices. Interactive platforms can increase transparency and accessibility for the public, reviewing agencies, and historically under-represented populations. Displaying EIS or EA data in a mobile-friendly format can increase access to NEPA documents since a larger proportion of households have smartphones than desktop or laptop computers.⁵ These platforms can also save time during the review process, bring a deeper understanding of the projects and its impacts, and facilitate earlier identification of conflicts. DOT has posted content on the DOT website and is launching a Modernizing NEPA challenge prize program to encourage more widespread use of interactive, web-based platforms.

Figure 8: Example of Interactive Environmental Impact Statement (EIS)



EXAMPLES OF INTERACTIVE EISS:

[North South Corridor Study](#)
[Looe Harbor](#)

TIP: PRESS CONTROL THEN CLICK TO FOLLOW LINK

⁵ <https://www.census.gov/newsroom/press-releases/2021/computer-internet-use.html>

STRATEGY 4: CONSOLIDATE NEPA RULES AND GUIDANCE (CENTRAL RESOURCES PAGE)

Impediment: Identifying applicable regulatory requirements across multiple agencies can be difficult and there is no one-stop, user-friendly interface to easily identify applicable regulations.

A central location for DOT NEPA requirements and up-to-date guidance and individual modal operating procedures will help project sponsors and reviewing agencies keep track of requirements and understand DOT-specific rules, procedures, and definitions. DOT is collaborating with FPISC and CEQ to evaluate interactive options that build off the Dashboard database for users to easily search for requirements relevant to their project. The site will highlight DOT-specific requirements and identify differences between Operating Administration requirements.

The [Implementation Guidance for the Biden-Harris Permitting Action Plan](#), dated March 6, 2023, calls for Central Resources Page on the existing Dashboard website that would compile links to NEPA procedures across federal agencies that build infrastructure and are on the Federal Permitting Dashboard. The page is intended to foster understanding of requirements and opportunities for the project sponsors, applicants, reviewing agencies, affected communities, Tribal nations, and stakeholders.

Legislative References

The Consolidated Appropriations Act of 2023 instructed DOT to brief the House and Senate Committees on Appropriations on whether digital platforms facilitate transparency and reduce the time needed to complete project permitting. DOT conducted this briefing on August 25, 2023. ‘Digital’ in the briefing referred to collaborative, web-based platforms that can be used internally or externally.

The Fiscal Responsibility Act also included a provision for CEQ to study the feasibility of building a unified permitting portal that would allow project sponsor to submit any required documents in one online location (referred to as E-NEPA in the Fiscal Responsibility Act). The strategy discussed here would realize many of the benefits highlighted in the Fiscal Responsibility Act using existing off-the-shelf platforms on a project-by-project basis. DOT will seek opportunities to collaborate with CEQ on this study and share learnings from the interactive NEPA challenge prize program and Central Resources Page effort.

STRATEGY 5: ESTABLISH A CONCIERGE PROGRAM

Impediment: Complex projects may require additional support to stay on track.

Recognizing the investment in transportation through both the IIJA and IRA and the increase in funded DOT projects, there is a need for increased efficiency and coordination in environmental reviews and permitting. DOT is piloting a new program that will create a team of staff and detailees to be “concierges.” The concierges will be assigned to identify and troubleshoot issues on a limited number of complex projects and program needs to increase efficiency. The program will assist Operating Administrations to advance priority projects, improve the efficiency of the environmental review process, and provide additional support for new and expanded project funding programs and environmental requirements under BIL and other recent legislation. The Concierge Program will help IPIC to accomplish key elements of its statutorily defined role to provide project technical assistance and to modernize and reform the Department’s approach to permitting and reviews (49 USC 102(h)). The President’s Fiscal Year 2024 Budget includes funding to support implementation of the Concierge Program.

STRATEGY 6: ENCOURAGE ROBUST PLANNING EFFORTS PRIOR TO INITIATING NEPA

Impediment: Insufficient use of pre-Notice of Intent (NOI) planning and Planning and Environment Linkages (PEL) processes.

DOT continues to encourage robust planning and environmental efforts prior to initiating the NEPA process. These efforts can aid in reducing the time needed to complete NEPA by developing the purpose of the project, engaging stakeholders, collecting data, and identifying alternatives and environmental issues. Operating Administrations can create clear expectations and guidance to delineate what actions are recommended prior to the NOI versus should be started after the issuance of an NOI.

STRATEGY 7: LEVERAGE \$100 MILLION IN IRA FUNDING

Impediment: Inadequate resources among applicants and resource / regulatory agencies.

FHWA will leverage \$100 million in IRA funding (23 U.S.C. § 178(a)) to:

- Provide technical assistance to direct recipients of grants.
- Add funding to Local and Tribal Technical Assistance Programs (LTAPs and TTAPs).
- Provide funding for transportation liaisons at agencies that review or give authorizations to transportation NEPA projects.
- Showcase and enhance GIS, travel demand, and modelling tools.

These activities are intended to improve the environmental review and permitting process. The first of the activities will be initiating as soon as spring 2024.

WILL ADDITIONAL FUNDING HELP THE DEPARTMENT MEET ENVIRONMENTAL REVIEW REQUIREMENTS?

Section 11301 of BIL amended 23 U.S.C. § 139 to specifically request that DOT conduct “an analysis of whether additional funding would help the Secretary meet the requirements applicable to projects under this section” and report the result of that analysis. In conjunction with the funding provided by the IRA and the BIL to the Department, the President’s Fiscal Year 2024 Budget for the Department of Transportation, released March 9th, 2023, reflects the funding DOT needs to meet its commitments in the near term, including advancing the strategies described in this report.

Regardless of funding and staffing levels, project prioritization and proper resource management with respect to the review process will always be necessary. It should be noted that in the President’s Fiscal Year 2024 Budget, FTA requested authority to

acquire property early on non-linear projects, similar to the authority that FHWA has. Examples of non-linear projects are stations, maintenance facilities, or transit-oriented development. Other than for limited regulatory exception, FTA currently is only authorized to allow the purchase of property early for linear projects.

Agencies responsible for permitting (such as the US Army Corps of Engineers and the US Fish and Wildlife Service), particularly those that did not receive additional funding to support BIL and IRA implementation, must also be adequately funded consistent with the President’s Budget to ensure timely and effective environmental review processes. This is particularly the case if agencies are to meet the growing project volumes and shorter timelines required by BIL and the Fiscal Responsibility Act.

