

Presidential Executive Order: Environmental Review/Permitting Process for Infrastructure



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

08/16/2017

The White House issued on August 15th an Executive Order titled:

Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects (“EO”)

The EO is intended to address what is characterized as an outdated system for completing environmental reviews of infrastructure development.

The focus of the EO are the “Major Infrastructure Projects” (“MIPs”) which is defined as:

... infrastructure project for which multiple authorizations by Federal agencies will be required to proceed with construction, the lead Federal agency has determined that it will prepare an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., and the project sponsor has identified the reasonable availability of funds sufficient to complete the project.

Key objectives/requirements of the EO appear to include:

- One Federal Decision policy which requires a lead Federal agency to work with other relevant Federal agencies to complete the environmental reviews and permitting decisions needed for major infrastructure projects
- Two-year goal to process environmental documents for MIPs
- Council on Environmental Quality development and implementation of an action plan to improve environmental reviews
- Office of Management and Budget development of a two-year government-wide modernization goals
- Agencies modifying their strategic plans to include agency-specific goals for improving environmental review and permitting processes
- CAP goals (i.e., Federal government priority goals established by the government Performance and Results Act Modernization Act of 2010) on Infrastructure Permitting Modernization shall within 180 days of establishment require the issuance of guidance for establishing a performance accountability system to facilitate achievement of such goal which shall include:
 - Tracking of MIPs
 - Scoring (i.e., agency performance and overall project toward CAP goals, etc.)
 - All projects subject to 23 U.S.C. 139 and certain other defined projects under 42 U.S.C. 4370m are required to be tracked under the Dashboard established under 42 U.S.C. 4370m-2(b)

The Obama era Executive Order 13690 (January 30, 2015) titled “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input” is revoked.

[A copy of the EO can be downloaded here.](#)