The Standing Committee on Environmental Analysis in Transportation is concerned with the relationship between the natural and human environment as an integral part of the planning, design, construction and operation phases of all modes of surface transportation projects and programs. We are also concerned with the unique interrelationships among environmentally related disciplines, and their influence on project decisions and program outcomes. We have an interest in broad policy directions affecting the integration of environmental considerations in transportation decisions within a multidisciplinary setting. The Committee places emphasis on research needs, sharing best practices, project delivery tools, emerging and strategic issues, technology transfer, process innovation, management systems, and information sharing throughout the broad spectrum of categories linking transportation and the environment.

Thank you to all who either contributed to or attended the 2019 TRB annual meeting. It was a very productive meeting. The sessions and workshops helped us capture new concepts from which we can develop new Research Needs Statements. Thank you!

Next year marks TRB’s 100th anniversary. To mark the occasion, TRB has asked committees to consider writing Centennial papers. These papers highlight each standing committee’s history, current contributions, and projections for its future work. Given that TRB recently released its paper on Critical Issues in Transportation, and given the considerable discussion on the future of the interstate system, we have an opportunity to reflect, as a committee, on what are we doing and where we should be heading.

The Critical Issues in Transportation paper discusses, in part, connected and automated vehicles. These technologies are uncharted territory, and they can call for transportation authorities to forge new approaches to how we develop transportation plans and make model decisions. My understanding is that there is no clear method established to analyze and determine either the impacts on or benefits to the human and natural environments from these types of vehicle operations. Much still needs to be known about how these studies and conclusions will be incorporated into environmental documents.

The same is true for our national demographics, which are shifting.

continued on next page
According to *Critical Issues in Transportation*, there is a slow but steady migration of people from rural areas to urban centers. This spells certainty for more urban transportation redevelopment—contrary to past decades where stretches of pavement often passed through remarkable rural landscapes. There are other demographic changes, most notably in age and income, that will have a definite yet unknown influence on investment strategies and mode choice. Our committee must adapt to these changes. We must find a course for moving forward, making good decisions on what research is needed while effectively sharing research results with practitioners.

Still, our committee is working on the current issues of climate change. We need to continue efforts to help make transportation facilities resilient and their proximal environments productive. To achieve this goal, we must persevere in the battle to find sustainable alternatives and develop suitable planning, design, and construction policies and procedures. This goal will be elusive as the science of climate change is an emergent field, and funds to develop robust projects that can address the harsh reality of climate change are hard to come by. Fortunately, we are not alone: other TRB committees and task forces are considering this issue albeit from different perspectives.

With all these challenges, we may need to consider changing our committee’s internal structure. Right now, we’re very much functionally organized around TRB’s internal business needs. We may need to realign our internal structure to be more effective with the challenges we face. Given the grave and seemingly overwhelming nature of the problems, we may need to dedicate scarce committee resources and begin focusing on the larger external issues at hand. This may lead us to revise our subcommittee structure to work on these challenges. Reflecting on *Critical Issues in Transportation* and contemplating our Centennial paper can give us an opportunity to assess our situation and chart our future. I can picture us enthusiastically discussing the committee’s internal structure this summer and next January. Just some food for thought. I’m sure much more is to come very soon.

Martin Palmer
Chair, ADC10 Committee
Federal Highway Administration Updates

Executive Order (EO) 13807 and One Federal Decision (OFD)

FHWA is working to implement the EO and OFD. Under the EO, all federal agencies are to move major projects (essentially all environmental impact statements, or EISs) through the NEPA decision-making process, moving from notice of intent (NOI) to record of decision (ROD) within 2 years, and obtaining permits within 90 days of the ROD. FHWA issued a memorandum that listed pre-NOI activities to assist in meeting the 2-year timeframe.

OFD applies when more than one federal agency has an action to take relative to the project. Those agencies are then to use a single EIS/ROD to take their actions. To date, three projects are working under the OFD process. OFD applicability is determined by FHWA headquarters.

Council on Environmental Quality (CEQ) Report on EIS Timelines

CEQ released a report on December 14, 2018, that assessed over 1,000 EISs completed between January 1, 2010, and December 31, 2017. Their findings indicated that the average time from NOI to ROD is approximately 4.5 years. The full report can be accessed here: https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timelines_Report_2018-12-14.pdf

NEPA Assignment

MAP-21 paved the way for all states to take over the responsibility of NEPA approval from FHWA. To date, six states have taken on NEPA Assignment (California, Texas, Florida, Ohio, Utah, and Alaska), and two others are working through the process (Nebraska and Arizona). FHWA can conduct a gap assessment for states considering NEPA Assignment to determine what they must do before taking on NEPA Assignment.

Planning and Environmental Linkages (PEL)

FHWA is advancing efforts to promote PEL. Workshops have been conducted in several states to help educate practitioners on what PEL is and how it can be used to help expedite project delivery. https://www.fhwa.dot.gov/innovation/everydaycounts/

Federal Permitting Dashboard

This is a public dashboard that shows major NEPA milestones and permits required for projects. OFD projects must be on the dashboard along with all EISs and all EAs post June 1, 2016. The focus is on transparency and accountability.

Every Day Counts (EDC)—5

EDC-5 was recently launched. Virtual public involvement is one of the focuses of the new initiative. Carolyn Nelson (Carolyn.Nelson@dot.gov) is the point of contact; she is seeking case studies and examples.
SUBCOMMITTEE SUMMARIES

LIAISON SUBCOMMITTEE

- As discussed at the 2018 summer meeting, the focus of the Liaison Subcommittee has changed. The subcommittee has been coordinating closely with the Research and Strategic Issues Subcommittees to identify joint research needs statements and then reach out to the appropriate sister TRB Committees with these suggested needs statements. In addition, the subcommittee has been encouraging young member and international member participation on the Committee.

STRATEGIC ISSUES SUBCOMMITTEE

- This subcommittee was formed to look at “edge issues”—issues on the horizon that might affect NEPA practice. The subcommittee intends to keep a running list of ideas that can be handed off to the Research Subcommittee for potential development into research needs statements.

RESEARCH SUBCOMMITTEE

- This subcommittee is interested in working with practitioners (FHWA/State DOTs/consultants) to find out “what they need” and use this information to develop research needs statements that will provide meaningful information for application in the NEPA process. The subcommittee is currently working on a research needs statement for Statewide Data Collection for Environmental Analysis.

MID-YEAR MEETING SUBCOMMITTEE

- Our committee is working with TRB staff to gain approval to co-host our Summer 2019 meeting with the Texas DOT. It will be held September 10–12 in Austin, Texas. Ideas for conference presentations should be sent to Meridith Krebs (meridith.krebs@kimley-horn.com) or James Martin (jbm@ncsu.edu).

- The 2020 mid-year conference will be a Section Conference; it is being planned for Denver, Colorado.

STEERING SUBCOMMITTEE

- The next Triennial Strategic Plan (TSP) will need to be prepared for 2020. Three subcommittees will need to update their goals and objectives this year. The Steering Subcommittee will be updating the State DOT Environmental Contact Information Database, which was last updated in 2012.

COMMUNICATIONS SUBCOMMITTEE

- The website must be updated to include the current committee members, and the subcommittee has requested that all committee members provide headshots to accompany the member list. The website will be expanded to include posters and, with approval from the committee, papers and other information relevant to the committee’s mission.

HISTORY SUBCOMMITTEE

- The oral histories of past key members of the committee have been edited and are ready to be uploaded to the website.

- The Centennial Paper for the committee is in progress. TRB’s centennial occurs in 2020, and committees are encouraged to submit a Centennial Paper regarding their committee’s history, including a forward look to where the practice is going.
Meeting National Environmental Policy Act requirements is one of the biggest challenges departments of transportation face in delivering large, complex projects. In 2012, Congress passed the National Environmental Policy Act Assignment under 23 U.S.C. 327. The MAP-21 provision removes the Federal Highway Administration from the environmental review process and puts environmental decision-making and approvals in states’ hands.

IDENTIFYING THE BENEFITS

In December 2014, the Texas Department of Transportation became the second state to assume full NEPA assignment authority. And, it has become a best practice in streamlining our environmental process:

- Fewer reviewers equal faster decisions. For example, in 2017, TxDOT made 2,948 environmental decisions/approvals under the responsibilities delegated by NEPA assignment.
- We have averaged a start-to-completion time of 18 months for environmental assessment projects. Prior to NEPA assignment, environmental assessments took an average of 30 months to complete.
- The trend indicates a 30-percent reduction in processing times for environmental assessments.*
- Because decisions are made at the state level, rather than at the federal level, local governments and other stakeholders have better access to those decision-makers.
- We directly consult with federal regulatory agencies.
- We have greater control over project planning and scheduling.
- Our review process is more systematic and consistent.

It should be noted that NEPA assignment does not change the federal requirements applicable to the environmental review process. There has been no change in compliance or in regulatory agency relationships.

SECURING A LIMITED WAIVER OF SOVEREIGN IMMUNITY

To qualify for the NEPA assignment program, TxDOT needed its State Legislature to approve a limited waiver of sovereign immunity, which would allow Texas to assume legal responsibilities and be sued in federal court.

When we approached elected officials about the waiver, we explained the benefits of NEPA assignment and emphasized that it “isn’t what we’re giving away; it’s what we’re getting.” We also explained that, prior to receiving NEPA assignment, TxDOT would have been side-by-side with FHWA in federal court anyway. As it
stood, we were basically second chair to their first chair. With NEPA assignment, TxDOT would be first chair on our own.

Elected officials agreed with our argument, and in 2013, the State Legislature approved the waiver.

NEGOTIATING A MEMORANDUM OF UNDERSTANDING

We then began a year-long negotiation with the FHWA about terms, conditions, roles and responsibilities. Under the memorandum of understanding, TxDOT determines whether potential impacts warrant an environmental impact statement, an environmental assessment or categorical exclusion. TxDOT’s districts determine categorical exclusions. Our central office coordinates reviews of and approves environmental impact statements or environmental assessments. We also have assumed some of the FHWA’s responsibilities under the Clean Water Act, Endangered Species Act and National Historic Preservation Act.

The FHWA retains responsibility for bistate projects and projects that cross international boundaries. Other than that, the FHWA has largely assumed the role of program oversight, which includes reviewing and issuing reports to Congress.

When the MOU was signed in December 2014, the only other state with full NEPA authority was California, which assumed the role under a SAFETEA-LU pilot program.

BEING AUDITED

To hold DOTs accountable, the FHWA conducts regular audits. TxDOT has been audited four times and currently is undergoing its fifth and final audit—and they don’t get easier. Each audit begins with the FHWA asking multiple questions to which TxDOT must submit lengthy written responses. FHWA then interviews TxDOT personnel and prepares a final report, filed in the Federal Register.

After TxDOT’s final audit, FHWA will “monitor” our environmental activities. We are uncertain of the monitoring process, but we anticipate it will be less of a comprehensive review and more of a spot check.

DOCUMENTING INSIGHTS

For other states considering NEPA assignment, we offer the following insights:

• **Be prepared to make the tough decisions.** Because TxDOT assumed full responsibility of our environmental program, we can no longer push the challenging questions to the federal level. We must make those decisions independently and be accountable for them. It doesn’t take long to figure out there are gray areas in the laws, and you must interpret them at your discretion. When that occurs, we rely on our capable staff to help us in different subject matter areas.

• **Inventory technical expertise and resources.** In past NEPA reviews, my staff invested considerable time coordinating with the FHWA. When we applied for full NEPA authority, I anticipated the need for less coordination would balance out the need for more quality assurance/quality control and review staff. For the most part, that theory has held true. Our program has the in-house expertise and all the resources required to complete the environmental process.

The only staff addition we made was an attorney, in anticipation of doing more on the environmental review side than we had previously. Further, we hired a consultant to help complete the application and review of our environmental program to ensure it was ready to take on the NEPA assignment.

• **Emphasize quality.** Because NEPA assignment requires program enhancements that lead to better consistency and higher quality, we have a much more rigorous QA/QC program. We also track much more data than we did previously.

TxDOT also:

• Has a more demanding project review and documentation process
• Trains our staff on topics such as documentation and records management
• Updates our NEPA manuals
• Communicates closely with district offices about federal changes that may affect our new responsibilities
• Remains transparent with our stakeholder organizations about assignment activities

**ACHIEVING A GOAL**

Our intent was to streamline the environmental process and deliver projects faster by securing environmental decision-making authority. And, within three and a half years, we've accomplished our goal. Through NEPA assignment, we have demonstrated the state can improve a federal process and deliver projects to the public sooner, saving time and money.

*We haven't had enough time to start and complete an EIS under NEPA assignment, so the question of how much time TxDOT will save on environmental impact statements still is pending.*

**ABOUT THE AUTHOR**

Carlos Swonke is the director of the Environmental Affairs Division of the Texas Department of Transportation. The Environmental Affairs Division oversees TxDOT’s environmental programs, develops environmental policies and conducts environmental investigations for the department throughout the state. He has 30 years of environmental planning experience with 14 of those years in the private sector and 16 combined years at TxDOT. He has been the director of the Environmental Affairs Division since 2012.

**Florida’s Must-Haves for NEPA Assignment**

*Readiness, software and training pay off for FDOT*

**JASON WATTS**

Director, Office of Environmental Management | Florida Department of Transportation

While Florida’s assumption of the National Environmental Policy Act for highway projects is in its early stages, many benefits have already been realized. Instead of the federal government making decisions applicable to Florida, those decisions are made within Florida state government.

This assumption was realized in the memorandum of understanding executed in December 2016 between the Federal Highway Administration and the Florida Department of Transportation.

Under NEPA assignment, FDOT is responsible for ensuring federally funded highway projects covered by the MOU comply with NEPA and associated federal laws and regulations.

**ELIMINATES A LEVEL OF REVIEW**

NEPA assignment streamlines the environmental process by eliminating the federal review of environmental docu-
ments and empowering FDOT’s Office of Environmental Management to be responsible for NEPA decisions.

As FDOT completes more NEPA reviews from start to finish, we anticipate significant time and money savings. Ultimately, it is estimated the state will save $22 million annually and approximately 25 percent of scheduled time during the project development and environment phase.

**SETS CLEAR EXPECTATIONS**

The MOU establishes a clear division of responsibilities. FDOT approves all document types for highway projects that have federal funding or that constitute a federal action through FHWA. FDOT also is responsible for interagency consultation and compliance with environmental regulations/laws, including the National Historic Preservation Act, Endangered Species Act, Clean Water Act and others.

FHWA retains some responsibilities, including stewardship and oversight responsibilities, engineering decisions on project-level air quality conformity determinations, government-to-government consultation with Indian tribes, as defined in 36 C.F.R. § 800.16(m), U.S. DOT responsibilities for statewide and metropolitan planning and any project that crosses state or international boundaries. Further, FHWA will continue to be responsible for the environmental reviews associated with I-4 Beyond the Ultimate project and the Tampa Interstate Study.

**RESULTS IN BEST PRACTICES**

I would recommend any state considering NEPA assignment under 23 U.S.C. section 327 be ready to implement the program upon signing the MOU, have an effective document management system and a robust training program.

- **Readiness.** Florida signed its first NEPA document within hours of assuming responsibility. Florida was ready, having begun preparation in the years prior to assumption. FDOT added environmental and legal staff to the central office to augment our experienced, cross-functional team. NEPA readiness training was conducted in all FDOT districts.

FDOT built on previously established partnerships with federal regulatory agencies. FDOT updated its already extensive environmental review manuals and processes for assignment. FDOT also strengthened its consultant support contracts and quality assurance/quality control program. In addition, tools for tracking, reporting, monitoring and records retention were newly created or expanded.

- **Software.** FDOT implemented the Statewide Environmental Project Tracker, an electronic filing and tracking system, that ensures documents and files are digitized, easy to locate and easy to approve.

  SWEPPT is a secure tool created for the environmental document delivery and review process. Staff and consultants who have a role in NEPA delivery, planning, design and engineering use the system to review, approve and manage documentation. SWEPPT also supports performance reporting and FHWA access for audits.

- **Training.** FDOT has a robust training program, especially when it comes to the responsibilities it acquired under the MOU. Assumption of the responsibilities contained in the MOU have gone smoothly. The implementation of SWEPPT has been a challenge we have overcome as we have adapted to the use of this new tool.

The Environmental Management Training Academy offers a wide range of opportunities for on-demand and instructor-led courses as well as access to relevant training materials from previous classes. Topics in our curriculum include the NEPA assignment program, project development and environment process, environmental permitting, efficient transportation decision-making process, section 4(f) and more.

On-demand training includes both computer-based training and recorded webinars, giving staff an opportunity to learn at their own pace.

Live webinars provide direct access to Office of Environmental Management staff and federal regulatory agency partners. The Training Academy houses recordings of these webinars for those who missed the scheduled event or just want to review the material again.
For certain topics, FDOT provides instructor-led courses scheduled based on need. FDOT’s goal is to provide more extensive, firsthand experiences for attendees.

VALIDATES EFFICIENT REVIEW PROCESS

FDOT’s readiness, custom computer system and commitment to training led to a successful first audit. The published draft audit identified more than a dozen successful practices for Florida and only one instance of noncompliance.

FHWA will audit FDOT each year for the first four years to ensure compliance with the MOU. During the audit, FHWA staff reviews project files, conducts in-person interviews and drafts a report based on their findings. FDOT is given an opportunity to review the report before it is submitted to the Federal Register. FHWA allows time for public comment and then finalizes the report.

During the audit, FHWA focuses on staffing, technical competency and organizational capacity, adequate financial resources, quality assurance and quality control, progress toward performance measures, compliance with the MOU as well as federal laws and policies. The audit does not, however, evaluate project-related decisions.

With the first successful audit completed, FDOT is certain it will save both time and money on delivery of federally funded highway projects while giving the same level of consideration to Florida’s natural, physical environments and cultural and community resources. FDOT has ensured, through best practices, that those savings will result in a more efficient review process without shortcutting the process or legal requirements, ultimately delivering more transportation solutions to the citizens of Florida.

ABOUT THE AUTHOR

Jason Watts is the director of the Office of Environmental Management for the Florida Department of Transportation. He obtained a law degree from Florida State University after receiving a bachelor’s degree in analytical mathematics from the United States Military Academy at West Point. Previously, he served as Chief Counsel for Contracts and Special Projects for the Department, where he managed a staff of attorneys and also advised on public-private partnership projects (I-4, I-595, Port of Miami Tunnel and I-395), design-build projects, utility issues, complex transactions as well as various contractual issues.

HOW FLORIDA BENEFITS from NEPA ASSIGNMENT

Receives time and cost savings
Is responsible for the fate of its own projects
Has decision-making authority
Directly consults with federal regulatory agencies
Experiences more timely delivery of transportation projects
Allows more efficient use of FDOT staff and resources
Can apply cost savings to other FDOT projects
The volume of projects processed by the California Department of Transportation’s Division of Environmental Analysis has been tremendous since our inception of the NEPA assignment program in 2007. Currently, we are achieving more than a year of savings on our environmental documents. The savings equates not only to getting environmental documents prepared faster, but obtaining permits quicker and getting to construction earlier, which reduces project costs.

As of April 30, 2018, our department’s 700 environmental practitioners, who work on both state highway system and local-assistance federal-aid highway projects, have approved 11,873 categorical exclusions, 222 draft environmental assessments, 180 findings of no significant impact, 22 draft environmental impact statements, 18 final environmental impact statements and 15 records of decision.

Another impressive outcome of NEPA assignment is that our staff members have become expert NEPA practitioners. Employees who joined the department since 2007 know nothing different than being the NEPA lead.

Further, Caltrans has a very good working relationship with the California Federal Highways Division. If we have programmatic issues on projects, we are able to collaborate and identify solutions that work for both parties.

The Hallmarks of a Successful, Mature Program

California was the only state to apply for SAFETEA-LU’s NEPA assignment pilot program. We submitted our application based on our experience in administering the California Environmental Quality Act, similar to NEPA. Since then, NEPA assignment has become the course of business for us. In 11 years, we have curated a list of best practices and insights for successfully executing and growing a NEPA assignment program:

1. **Patience.** My first piece of advice is to have patience and fortitude. It took us two years to get our NEPA assignment program up and running and several more years to refine it.

2. **District-level NEPA coordinators.** Our office is responsible for coordinating with the Federal Highway Administration and administering the NEPA assignment program. To help inform and educate staff, we established NEPA assignment coordinators in each of our 12 districts. The NEPA coordinators act as liaisons between my office and their respective districts by providing critical infor-
mation to the NEPA practitioners. We hold quarterly meetings to update them on newer items — or, if we are finding consistent errors across the districts, we bring those issues up and address them in an effort to keep them from occurring in the future.

3. **Self-assessment.** During the NEPA assignment pilot program, we evaluated ourselves before each FHWA audit. We continue to monitor our program on an annual basis. One obstacle I have encountered and am trying to overcome is practitioners’ perceptions of our corrective actions. When we visit the districts to review files or look at environmental documents, our comments tend to be critical such as not using the exact regulatory language. My goal is to change practitioners’ perceptions of these corrections from being punitive to being simply a detail of compliance and nothing more.

4. **Essential tools.** Giving our employees the tools they need to excel at their jobs is paramount to growing Caltrans’ NEPA assignment program. Our written protocols and policies, encapsulated in the Standard Environmental Reference, offer exceptional step-by-step instructions. Further, an annotated outline provides comprehensive instructions about how to write an environmental document, reducing questions and eliminating errors. Because of limited state resources, we also rely on guidance from a knowledgeable consultant.

5. **Performance metrics.** We meet and report metrics to the FHWA and to Caltrans’ Executive Environmental Management Board. We measure our performance in:
   - Compliance with all environment laws
   - Adherence to the annotated outline
   - Discussion of the federal laws to ensure we have addressed everything
   - Correct use of our uniform file system

6. **Recognition.** Staff recognition is particularly important for new states coming into the NEPA assignment program. Employees may feel as though they are working under microscopes or being held to stricter levels. For that reason, Caltrans believes it is important to acknowledge their successes.

   For example, when we reviewed all of District 11’s environmental documents, uniform filing system and compliance with federal laws for the year, we found zero errors. That had never happened in Caltrans history. We were excited about their accomplishment and recognized the team with a surprise reception.

7. **Engagement.** Quarterly meetings with our local partners and resource agencies include California’s self-help counties (counties that have assessed a sales tax for improvements on their transportation systems) and our regional transportation planning agencies. During the meetings, we may update our partners on the status of our memorandums of understanding or pending federal legislation that could benefit their programs. The meetings give them a forum for their questions and concerns. We listen and help them solve specific issues.

   As a result of NEPA assignment, we are a one-stop shop. We work directly with environmental partners and resource agencies on environmental mitigation to ensure we are meeting all of our requirements.

8. **Advance mitigation.** In some areas of California, like the north coast, we have difficulty finding a mitigation credit bank because of the environment or because much of the land is publicly owned. In response, we are creating guidelines that allow our districts to develop and use mitigation credits.

   Once the mitigation banks are established, it will make our permitting go much quicker. Our advance mitigation office has been working very closely with the California Division of Federal Highways, both the environmental group and the federal aid reimbursement group, to make it happen.

9. **Continual improvement.** Caltrans’ Division of Environmental Analysis continually seeks ways to improve our processes and outcomes. The FAST Act could help us further streamline project delivery, making it even faster.
The transportation reauthorization bill introduces a 12-year pilot program for up to five states with NEPA authority. Under the pilot program, a qualifying state may establish a program of "Alternative Environmental Review Procedures." Under this alternative process, a state may substitute one or more state laws for NEPA, any provisions of 23 U.S.C. Section 139, FHWA's NEPA implementing regulations, and any Executive Orders (presumably those Executive Orders directed to U.S. DOT).

This legislation would allow us to substitute CEQA for NEPA in cases where CEQA is at least as stringent as NEPA. However, federal environmental laws, such as Section 7 of the Endangered Species Act, Section 4(f) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act, will not change. Caltrans still must meet the requirements of those laws and address them in our environmental documents. Currently, we are waiting for rulemaking from FHWA.

**LOWERING THE LEARNING CURVE**

NEPA assignment is not a program established overnight. During the first few years, there may be a learning curve, but with the help of the FHWA, input from DOTs that have mature programs, and guidance from knowledgeable consultants, perhaps the curve can be lowered.

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**ABOUT THE AUTHOR**

Tammy Massengale is chief of GIS, NEPA assignment, environmental management systems, innovation and staff development for the California Department of Transportation. She has been involved with the NEPA assignment program for the past 12 years, both at the district and headquarters levels, and is the NEPA assignment manager for Caltrans. She is responsible for ensuring compliance with all applicable federal environmental laws and FHWA NEPA regulations, policies and guidance for projects approved by Caltrans. Massengale is a member of the AASHTO NEPA Assignment Workgroup and provides guidance to states interested in the program. She also is a member of the AASHTO Committee on Environment and Sustainability Environmental Process subcommittee.

Contact her at (916) 653-5157 or tammy.massengale@dot.ca.gov.

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**ODOT’s Startup Strategy is Template for Success**

*State saves $17 million its first two years of NEPA assignment*

**TIM HILL**

Administrator Office of Environmental Services — Ohio Department of Transportation

Ohio was the third state in the nation to be assigned NEPA responsibilities by the Federal Highway Administration, behind California and Texas. Florida, Utah, Alaska, Nebraska and Arizona also have entered the same program or are applying to participate. More states are considering NEPA assignment because of the opportunities and savings it affords their environmental programs. In our first two years of participation in the NEPA Assignment program, the Ohio Department of Transportation has saved $17 million, a figure we expect to
increase after our third FHWA audit is complete. Much of our initial success is due to the groundwork we laid prior to assignment:

WE HAD A MATURE ENVIRONMENTAL PROGRAM

Our environmental program has matured to the point we can address any issues that may arise in ODOT’s overall transportation system. We needed that experience to determine the appropriate resources necessary to address and execute a good decision-making process that is defensible in the long term. As a result, we were confident in our ability to aim for and achieve the same level of performance the FHWA has attained prior to NEPA assignment. Our first two audits on the NEPA assignment program have proven that we can manage the NEPA process successfully.

WE ASSEMBLED A STRONG, DEDICATED TEAM

In preparation for NEPA assignment, we added two full-time positions: an environmental attorney who is embedded in the Office of Environmental Services and a NEPA assignment manager. Ohio is not a state frequently involved in environmental lawsuits, so having an in-house attorney is not solely for litigation. We wanted an experienced attorney to be involved with our studies and our environmental team of archaeologists, historians and wetlands professionals — someone who understands how we do business. Now, when he performs a legal sufficiency reviews for our office, he knows our processes well and can easily spot if we are heading off course. We also tap into his knowledge for guidance in developing our training manuals, guidance documents, project agreements, contracts, etc.

Our NEPA assignment manager orchestrates the FHWA audits, our self-assessments and numerous day-to-day program requirements to ensure we are following the same processes and capturing the same data the FHWA would.

ODOT’s OES now employs 31 full-time employees who handle more than 1,000 projects annually. The average OES staff member has 20 years of environmental experience. Our above-average experience added to our confidence going into NEPA assignment.

WE DEVELOPED THE RIGHT TRAINING TOOLS

We invest considerable time and resources in employee and consultant training to ensure our teams make good, defensible decisions. Having all of our processes in writing, keeping those processes current and using them in our decision-making is a best practice.

WE PROACTIVELY MANAGED THE NEPA APPLICATION PROCESS

Ohio has a solid relationship with FHWA, and the administration was very supportive of our application for NEPA assignment. Even with that level of support it took 13 months to navigate the application process. That’s a long time. Biweekly conference calls with FHWA and a schedule of deliverables shared with everyone can help applicants stay on top of the process. Otherwise, that one year can quickly turn into two years.

WE SET REALISTIC BASELINES FOR PERFORMANCE MEASURES

Developing performance measures, a requirement under Ohio’s memorandum of understanding with the FHWA, has been a major challenge for us. The first obstacle we encountered was creating good pre-NEPA baselines.

For example, from a project management standpoint, our staff knew to budget three months for NEPA approval of a small project. But we wouldn’t spend the entire three months securing that one approval. We might work on multiple project clearances during that time.

We considered counting only the active time our team worked on a project and subtracting all the nonwork time, but that proved too difficult. Instead, we track the actual labor involved with each NEPA clearance. According to that metric, our baseline for documentation of a small project is 16 hours. From that experience, we learned to look at the data and think about what is realistic.

Creating a performance measure for cost-savings was easier because it is based on FHWA’s involvement with a project. Let’s say one of our projects had a Section 4(f) impact, an adverse cultural resource impact and an
Environmental Justice issue. Each one of those requires a separate report submitted to the FHWA for review. FHWA would have taken approximately 30 days to review each action. We would have addressed their comments, and they would have had 15 days to perform a backcheck. We identify the actions associated with each review and thus are able to total the estimated FHWA review time. This is all quantifiable time.

There is one caveat, however. Every minute of FHWA review time doesn't automatically equal a construction delay. It’s not a one-for-one ratio. So, we had to ask: What percentage of projects do FHWA reviews typically lead to construction delays? To calculate how much the FHWA reviews would have impacted each project’s critical path, we would first remove project actions where ODOT and FHWA would have reviewed submittals concurrently. We estimated concurrent reviews would account for 40 percent of our submittals. From there we estimated that for small projects (under $20 million), only 10 percent of them would have been delayed proceeding to construction by FHWA reviews. Approximately 15 percent of medium sized projects ($20 million to $150 million) and 20 percent of large projects (more than $150 million) could have been delayed as well.

Once we have those numbers, we determine each project’s construction value and the inflation rate for a 30-day delay. With that formula, we’ve been able to arrive at a conservative baseline estimate of what we are saving. From this, we have been able to determine that ODOT has saved around $17 million dollars in the first two years of the NEPA assignment program.

We also have learned that cost savings are heavily influenced by the size of a DOT’s environmental program. If a program contains large projects which FHWA would have been heavily involved, then savings for that year will go up dramatically. Whereas, if a DOT’s environmental program comprises mostly smaller projects with few FHWA touch points, the estimated savings will be lower.

That’s where we are. We don’t have metrics that show how much time we’re saving overall, but we do have metrics that estimate our program’s overall cost savings. And, that savings is why my response to states that aren’t interested in assuming NEPA assignment is: How could you not be? If your state averaged $8 million to $10 million a year in cost-savings, after 10 years you would have saved $100 million. Think of the bridges you could rebuild or rehabilitate and all the intersections you could improve with $100 million!

NEPA assignment is truly an opportunity. FHWA has been a true partner in working with the states and has worked closely with us to make sure the program is a success. It’s a program every DOT should at least consider.

ABOUT THE AUTHOR
Tim Hill is administrator for the Ohio Department of Transportation’s Office of Environmental Services. He has 27 years of experience in project management/development and environmental document preparation review and oversight.
Contact him at (614) 644-0377 or tim.hill@dot.ohio.gov.
The TRB Standing Committee on Environmental Analysis in Transportation (ADC10) has organized a webinar to discuss how to comply with Presidential Executive Order 13807: Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects (August 2017).

This Executive Order (EO) focuses on expediting infrastructure projects by requiring that major infrastructure projects for which an environmental impact statement (EIS) is being prepared should reach a National Environmental Policy Act (NEPA) decision—a record of decision (ROD)—within two years. The time clock begins with the publication of the notice of intent (NOI) in the Federal Register.

Furthermore, this order suggests that all federal decisions should be coordinated such that all federal agencies required to take an action related to the project can do so using a single EIS, and that permits can be issued within 90 days of the NEPA decision.

This webinar will describe the requirements of EO 13807 and One Federal Decision (OFD), and identify potential obstacles to overcome in achieving these requirements. In addition, practices to facilitate the goals of the EO will be discussed, including practices that have already been applied as well as others for consideration. Presenters will provide technical, legal, and policy insights to help implement the EO.

TRB will conduct this webinar on Wednesday, March 27, 2019, from 2:00 pm to 3:30 pm.

A certificate for 1.5 Professional Development Hours (PDHs) will be provided to Professional Engineers (PEs) who register and attend the webinar as individuals. TRB is also offering 1.25 Continuing Legal Education (CLE) credits for this webinar.

Advanced registration is available until just before the webinar starts. Some registrants will need to pay $95 to attend this webinar. Sign into MyTRB.org to view registration information.

One Federal Decision: Requirements and Tips for Achieving This Goal

DATE & TIME
Wednesday, March 27, 2019
2:00 pm to 3:30 pm (Eastern)

WEBINAR PRESENTERS
Fred Wagner
Venable LLP
Diane Nulton
HDR, Inc.
Ted Boling
Council on Environmental Quality

MODERATOR
Diane Nulton

CREDITS
1.5 PDHs / 1.25 CLEs

REGISTRATION LINK
http://www.trb.org/Main/Blurbs/178780.aspx
A Committee-Centric View on the TRB Annual Meeting

By MARTIN PALMER, ADC10 Chair

This January, as in years before, over 14,000 people journeyed to the Transportation Research Board’s (TRB’s) annual meeting in Washington, D.C. Also like in years previous, we met at the Walter E. Washington Convention Center. The meetings, sessions, and workshops seemed hurried and hectic. The event had a different feel from earlier years as our committee had gone through its triennial rotation just nine months prior. While there were many old faces and familiar colleagues, we saw a new family and a different flavor to our events.

The sessions and workshops, as always, take an enormous amount of effort to develop and deliver. It was even more difficult this year. The federal government was in a partial shutdown. Most federal workers who live and work outside the Washington, D.C. area could not participate in the annual meeting. The U.S. Department of Transportation, and in particular Federal Highway Administration, made a huge effort to substitute presenters where they could. Unfortunately, nothing fully compensates for the loss of key people. This put an extra burden on our committee members and our sister committees that developed these events. The collaborative effort paid off. Everything still went very well.

Sunday

The 98th annual meeting of the TRB began on Sunday, January 13. As usual, Sunday is a day filled with workshops and special events. Our committee cosponsored three workshops in the morning: Emergency Undertakings and Historic Properties: Assessing Measures for Dealing with Unexpected and Catastrophic Events; Developing a Road Map for Ecologically Sustainable Transportation; and Safe and Sustainable Snow Fighting: Managing Environmental Impacts in Winter Maintenance.

Our committee-sponsored workshop took place that afternoon: 50 Years of the National Environmental Policy Act: Where We Have Been, Where Are We Going? We chose NEPA as our topic because 2019 marks the 50th year of the act’s introduction and passage in Congress. The workshop covered the early debates that informed NEPA to the current changes the law is undergoing. Four committees co-sponsored our event: the Standing Committees on Transportation History (ABG50), Ecology and Transportation...
(ADC30), Environmental Justice in Transportation (ADD50), and Critical Transportation Infrastructure Protection (ABR10). It was a well-attended workshop, with over 60 people in the room. The four people from our committee (out of seven total speakers) gave exceptional presentations—Jack Allen, Diane Nulton, Nancy Skinner, and Buddy Desai (see photo below). Our thanks to the Committee on Transportation History for suggesting the topic. It was a very productive workshop. We were able to express many concepts for later development into Research Need Statements for our committee and each of the co-sponsoring committees.

Monday

The next day, we had two subcommittee meetings and one sponsored session. The two subcommittees that met a day ahead of the full committee were Strategic Issues and Research Topics. In each of these meetings, we set a direction for our research efforts and discussed where best to concentrate our scarce resources. We titled the Monday morning session, National Environmental Policy Act Documentation Effects of Current Presidential Executive Orders. While many people from FHWA could not attend because of the partial government shutdown, Buddy Desai did a great job pulling together well-qualified and remarkable presenters to cover the topic. He also moderated the discussion. Buddy is the Client Service Lead at Jacobs and the Committee’s Liaison Subcommittee Chair. Fleming El-Amin, who works as a Senior Community Planner with FHWA’s Office of Human Environment where he is the lead coordinator for Context Sensitive Solutions and Design and Environmental Justice, spoke on Environmental Justice and NEPA. Jamie Auslander, who co-chairs Beveridge & Diamond’s Natural Resources and Project Development Practice Group, gave the audience a brief update on current NEPA litigation. Jeff Frantz, who is the Global Technical Lead for Environmental Impact Assessment for Building and Infrastructure with Jacobs (and the Committee’s History Subcommittee Chair), spoke on an early case study regarding the One Federal Decision Executive Order.

Tuesday

First thing Tuesday morning, our committee had its poster session. We had five posters including the committee poster. The other posters included one on the U.S. Highway 85 Environmental Impact Statement: A Case Study in Stakeholder Engagement (see photo, next page). This North Dakota project had a range of diverse stakeholders. The poster outlined the innovative tools the state’s Department of Transportation used to inform stakeholders. Another poster was on An Evolutionary Change to Transportation Impact Analysis. This poster covered a suggested practice to deal with substantial changes to the California Environmental Quality Act. California’s Senate Bill (SB) 75 changes performance metrics for analysis from level of service (LOS) to vehicles miles traveled (VMT). The third was on Applying NCHRP Research Report 860 Assessment Environmental Justice Effects of Toll Implementation or Rate Changes. Finally, a poster entitled MDOT MTA Customized Document Management System and Interactive GIS Based Map Developed to Facilitate Review Environmental Documentation covered a Maryland initiative that aims to streamline our practice and help project managers navigate the NEPA process.

The afternoon saw our full committee meet. A total of 54 people (18 were committee members) made it to
the meeting. We reserved four hours to cover various topics from subcommittee and FHWA updates to special guest speakers. Bright Elijah was one of our guest speakers. He is an undergraduate student and Dwight D. Eisenhower Transportation Fellowship Program recipient. He presented on Monitoring the Impact of Traffic on Air Quality with Environmental Egg Sensors: Calibration and Microsimulation. Bright is an environmental engineering major at Benedict College. This was the first time our committee had an undergrad student present at the business meeting.

Our other guest speaker was Melissa Savage from American Association of State Highway and Transportation Officials (AASHTO). We had a great open exchange of information focused toward two goals. One was to update us on AASHTO’s efforts and initiatives with regard to transportation and the environment. The other goal was to reconnect our committee with AASHTO and begin developing joint research needs statements. As a matter of history, this effort had started in January 2018 but never came to fruition. It was great that Melissa and the committee were able to begin re-establishing the joint effort with a promise to exchange research coordinator names and begin the discussions on developing joint research statements.

Jonathan Rubin (Energy and Environment Section Chair) and Christy Gerencher (Senior TRB Program Officer—Aviation & Environment) attended the first part of the meeting. Jonathan mentioned that the TRB’s centennial is approaching. He encouraged committees to submit centennial papers. TRB intends these papers to reveal the history of each committee.
and describe what contributions they are likely to make in the coming years. He also mentioned that TRB's budget would decline in 2021 from $2.4 million to $1.5 million. He stressed that TRB will need to make changes to adjust to the new revenue situation. He left with reminding people of TRB's paper on *Critical Issues in Transportation 2018*. This paper takes a forward look at significant transportation issues and challenges in the next 10 to 20 years. He encouraged everyone to read the manuscript. Christy gave us news on the proposed 2020 mid-year section meeting. She mentioned that while not all committees in the section would attend, the attendance should be robust. The meeting is to take place in Denver, Colorado. More information on the section meeting is forthcoming.

Diane Nulton, Senior Environmental Project Manager at HDR and committee member, spoke about her upcoming (and ADC10-sponsored) webinar. Her webinar's title is *One Federal Decision—Requirements and Tips for Achieving this Goal*. TRB has scheduled the event for March 27 (see newsletter page 6). Presenters will include Diane as well as Fred Wagner (partner at Venable, LLP) and Ted Boling from the Council on Environmental Quality.

In recognition of our committee’s efforts on involving young members, the Young Members Council awarded our committee as the Outstanding Committee for Young Professional Involvement 2019. This was in recognition of the committee’s efforts in integrating young members into committee events, research activities, organizational processes, membership, and leadership. Committee members playing key roles in these initiatives included Valerie Birch, Holly Cantrell, Meredith Morgan (a Young Member), and Buddy Desai. The committee gives thanks to those active members who made a big difference.

**Wednesday**

Wednesday closed the meeting with regard to our committee’s events. In the afternoon following the Chair’s Luncheon, AASHTO made its third consecutive appearance at TRB with its session on *What's Hot with State DOTs*. Our committee sponsored this session, and it was one of the two sessions TRB affords committees as a normal course of annual meeting planning. During the session, Carissa Watanabe, Environmental Performance Manager, Utah Department of Transportation (UDOT), spoke on how the UDOT solicited input on congestion mitigation needs across the state and prioritized projects based upon criteria of the Senate Bill, which also provides $100 million for congestion relief funding. Rhonda S. Fair, Ph.D., Director of Tribal Coordination at the Oklahoma Department of Transportation (ODOT), spoke on how they work in partnership with Tribes during the project planning and delivery process. Rhonda spoke to recent projects where ODOT and Tribes have collaborated and shared lessons learned and best practices. Anna Bosin, P.E., Research Engineer and Tribal Relations Liaison at the Alaska Department of Transportation and Public Facilities Office (AKDOT&PF) shared some of the unique Alaskan partnerships between the 229 federally recognized Tribes and AKDOT&PF as well as introduced AASHTO’s new Community of Practice for Tribal Liaisons. Finally, Karin Landsberg, Senior Policy Specialist in the Air Quality and Energy group at the Washington Department of Transportation, spoke on its Practical Solutions Initiative, electric (hybrid) ferries, an international resiliency partnership, and integrating environmental and multimodal needs into agency decision-making.

In addition to the "strictly business" aspects of this event were the very much welcomed social aspects of our annual meeting. Some things were the same; some things changed. J Paul's restaurant in Georgetown, an occasional sojourn for certain members of our group, is no longer in business, but we found Clyde's, which seems its equal. Often times the weather is mild; this time we got 8 to 10 inches of snow in the city. Yet, with this and the work on the Metro lines out of Reagan National Airport, it didn’t seem to affect either the meeting or the much needed personal interactions surrounding this immense event.

Things are at a close for this year. I look forward to what January 2020 brings. See you all then!
President Trump signed Executive Order (EO) 13807 in August 2017 that aims to complete environmental review and approve major infrastructure projects within two years.

This means new accountability requirements for lead agencies, their personnel, and other reviewing and permitting agency personnel. While the two-year requirement might seem daunting, agencies have already achieved that timeframe (and even shorter) for a number of major infrastructure projects.

How do the new requirements stack-up against those enacted by predecessors, and how can agencies and environmental practitioners prepare?

Streamlining: Where are We Now?

The President’s Council on Environmental Quality (CEQ) and the Office of Management and Budget (OMB) wrote a major provision of EO 13807 called One Federal Decision (OFD). CEQ and OMB prepared the OFD Memorandum of Understanding (MOU) for Major Infrastructure Projects that was signed by a dozen agencies in April 2018.

The MOU facilitates the implementation of EO 13807 by instituting processes that enable better interagency coordination for the timely review and approval of significant infrastructure projects. OMB issued guidance on implementing the performance accountability system aspects of EO 13807 and OFD in September 2018.

In the meantime, many federal agencies have been updating their project planning, NEPA, and permitting regulations and processes to implement EO 13807 and OFD.

Even with all of these directives focused on streamlining, more are expected. Insiders anticipate that in FY2019 there will be further CEQ and federal agency updates made to the National Environmental Policy Act (NEPA) implementing regulations and processes.

With initiation of divided government in early 2019—Democrats controlling the House of Representatives and Republicans controlling the Senate and the White House—it is doubtful that any legislative changes to the NEPA statute will be forthcoming until after the 2020 general election, given the two parties’ distinctly different perspectives on environmental regulation.

How Have Past Administrations and Congress Tried to Expedite Environmental Reviews and Permits?

Since 1970, NEPA has required federal agencies to weigh the environmental consequences of their ac-
tions before making decisions. It can, and often does, take years to complete NEPA reviews, particularly for major infrastructure projects.

Over the years, agencies have produced environmental impact statements (EISs) that greatly exceed the CEQ guideline page limits, and many parties think they take too long to complete. This is in spite of NEPA’s regulations on page limits, emphasis on focusing only on essential components, directives to integrate NEPA requirements with other planning and environmental review procedures, and provisions for time limits.

While there are various reasons that an EIS process takes too long, the excessively lengthy ones lead to protracted internal reviews and requests from stakeholders to extend comment periods.

In the end, an extensive EIS does not necessarily make the document and process more legally defensible. Moreover, it can overwhelm and bog-down reviewing agencies, the public, elected officials, and, ultimately, the judges.

Also, the amount of time involved in agency decisions regarding areas such as wetlands, endangered species, historic properties, and bridges can take too long because of staffing constraints, varying statutory responsibilities, differing missions, and policy differences. The new EO is the latest of many attempts by administrations and Congress to streamline the NEPA review and authorization processes:

**2002**
- President George W. Bush signs Executive Order 13274, which emphasized the importance of expedited transportation project delivery while being good stewards of the environment.

**2005**
- Congress passes the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), aimed at improving efficiency in environmental review of transportation projects.

**2012**
- President Barack Obama signs Executive Order 13604 to improve efficiency in federal permitting and review, including tracking progress against performance goals, in addition to transparency and environmental protection.
- Congress passes the Moving Ahead for Progress in the 21st Century Act (MAP-21) to accelerate transportation project delivery through the increased use of Categorical Exclusions (CEs), programmatic approaches, and planning and environmental linkages.

**2015**
- Congress passes the Fixing America’s Surface Transportation (FAST) Act. This codified the Federal Highway Administration (FHWA) “Every Day Counts” initiative, allowed greater use of funds for permitting improvements, improved early engagement, expanded the federal project Dashboard, formalized the Federal Permitting Improvement Steering Council (FPISC), accelerated processes for emergency projects, and established a pilot program to delegate NEPA to certain states for transportation projects.

**How Is the New EO Different?**

The intent of the new EO is familiar, but it mandates a more stringent time frame than its predecessors:

“Conduct environmental reviews and authorization processes in a coordinated, consistent, predictable, and timely manner in order to give public and private investors the confidence necessary to make funding decisions for new infrastructure projects; speak with a coordinated voice when conducting environmental
reviews and making authorization decisions; and make timely decisions with the goal of completing all federal environmental reviews and authorization decisions for major infrastructure projects within two years.”

Changes in the Approval Process

The key process change in the EO is the “One Federal Decision” Process. The OFD process requires designating a single federal lead agency throughout the NEPA and authorization processes and including all approving agency NEPA decisions in one record of decision (ROD), with certain exceptions.

The federal lead, as well as cooperating and participating agencies, are required to agree on a permitting timetable. Federal authorization decisions for the construction of a significant infrastructure project must be completed within 90 days of the issuance of a ROD by the lead federal agency, provided that the final EIS includes an adequate level of detail to inform agency decisions.

The CEQ and the OMB are required to develop the framework for implementing OFD, in consultation with the FPISC. The framework will include guidance on the development of permitting timetables, including the criteria for advancing a project into schedule development and the process for extensions.

Timelines are necessary to account for federally required decisions or permits assumed by or delegated to state, tribal, or local agencies. CEQ and OMB will also develop guidance for applying OFD whenever the lead agency is a state, tribal, or local agency exercising an assignment or delegation of an agency’s NEPA responsibilities.

Other process improvements include the following:

- **CEQ Streamlining Guidelines**: CEQ is required to provide guidance to enhance and modernize the federal environmental review and authorization process.
- **Energy Corridors**: The Departments of the Interior (DOI) and Agriculture are required to facilitate the identification and designation of energy right-of-way corridors on federal lands for government-wide expedited environmental review for the development of energy infrastructure projects.

  - **FPISC**: The EO provides organizational support for the FPISC.
  - **Dashboard**: Projects subject to the EO must be tracked under the federal Dashboard.
  - **Agency Reorganization**: The DOI is required to provide OMB a strategy and recommendations for a multi-agency reorganization effort that would further the aims of the order.

Accountability in Agency Performance

The 15 cabinet-level agencies and a score of other executive-level agencies have existing Cross-Agency Priority (CAP) goals established by the Government Performance and Results Act (GPRA) Modernization Act of 2010. Pursuant to the EO, OMB—in consultation with the FPISC—established a CAP Goal on Infrastructure Permitting Modernization so that:

1. Federal environmental reviews and authorization processes are consistent, coordinated, and predictable.

2. The processing of environmental reviews and authorization decisions should be reduced to not more than an average of approximately two years, measured from the issuance of the notice of intent (NOI) or other benchmark deemed appropriate by OMB.

Agencies with environmental review, authorization, or consultation responsibilities for infrastructure projects are required to modify their strategic plans and annual performance plans (under the GPRA) to include performance goals related to the completion of environmental reviews and authorizations consistent with the new CAP Goal.

The agencies are required to incorporate the achievement of these performance goals into appropriate
agency personnel performance plans such as those of the agency Chief Environmental Review and Permitting Officers (CERPOs) or other appropriate officials.

In September 2018, OMB, in consultation with the FPISC, issued guidance for creating a performance accountability system to determine whether agencies are meeting their goals, including the costs of environmental review and authorization for each project. OMB will consider each agency’s performance during budget formulation and determine whether appropriate penalties should be imposed for those that significantly fail to meet a permitting timetable milestone.

**Accountability under OFD**

Simply put, agencies now have a goal to complete EISs for major infrastructure projects in approximately two years and issue all necessary authorization decisions within 90 days of issuance of the ROD that is either integrated with or follows a Final EIS. The two-year goal applies to EISs with an NOI published after August 15, 2017.

Before the issuance of the NOI, the lead agency, in consultation with the project sponsor and cooperating and participating agencies, develops a permitting timetable for the environmental review and authorizations. The timeline becomes publicly available on the permitting Dashboard.

To make the process easier, project sponsors need not apply, as federal agencies determine which projects fall under OFD.

Projects subject to the OFD MOU:

- Require multiple authorizations by federal agencies before construction can begin.
- Prepare an EIS, as determined by the lead federal agency.
- Prove reasonable availability of funds to complete the project, as identified by the project sponsor.

Through the OFD MOU, the OMB, in consultation with the FPISC, has established a performance accountability system that will score each agency on its implementation of EO 13807. OMB intends to publish a quarterly scorecard of agency performance. The OMB will consider poor performance in budget formulation, which could result in the imposition of penalties.

Considerations in the accountability system include the following six assessment areas:

1. whether major infrastructure projects are processed using the OFD framework;
2. whether major infrastructure projects have a complete permitting timetable;
3. the extent to which agencies are meeting major milestones in the permitting timetable for major infrastructure projects;
4. whether delays for major infrastructure projects follow a process of elevation to senior agency officials;
5. the length of time it takes to complete the processing of environmental reviews and authorizations for each major infrastructure project; and
6. the cost of the environmental reviews and authorizations for each major infrastructure project.

While the two-year requirement might seem challenging, agencies have already achieved that timeframe and even shorter ones for significant infrastructure projects without cutting corners.

Among other things, it takes focused pre-scoping activity, clear decisions on what is essential to the issue at hand, relationships with cooperating agencies and other agencies, page limits for every section in the EIS, purposeful meetings, incorporation by reference, and environmental consequences defined around the critical issues identified during scoping.
Revising Departmental NEPA Regulations and Processes

Many agencies took streamlining actions in 2017 and 2018.

First out of the blocks, in September 2017, the DOI issued Secretarial Order 3355, taking a more aggressive approach to implementing EO 13807 and applying it to all proposed actions, not just infrastructure. This order also imposed page and time limits on EISs.

Some of the first EISs implementing the DOI Secretarial Order were issued in 2018. NEPA lead agencies and project proponents have been utilizing FAST-41 to further ensure timely outcomes.

In January 2018, FHWA signed a working agreement with the U.S. Army Corps of Engineers, Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and the Coast Guard on coordination, planning, project development, and permitting for major infrastructure projects.

In October 2018, FHWA issued internal guidance regarding activities that should be completed prior to initiation of new EISs for significant infrastructure projects and subject to OFD. During the same month, the U.S. Environmental Protection Agency issued standard operating procedures for implementation of FAST-41 and EO 13807. The U.S. Department of Transportation finalized rulemaking shortly after, which merged FHWA, Federal Railroad Administration (FRA), and Federal Transit Administration (FTA) NEPA and Section 4(f) regulations, establishing the same overall environmental review process for all three agencies.

The rulemaking incorporates FAST-41 requirements, expands the number of CEs for rail projects, and allows FRA to use FTA and FHWA CEs. CEQ’s Advanced Notice of Proposed Rulemaking issued June 20, 2018, contained 20 questions for input on the efficiency of the process. Topics included optimal interagency coordination of environmental reviews and authorization decisions, format and page length of NEPA documents, time limits for completion, and greater clarity around issues that are relevant and useful to decision-makers and the public. The comment period has closed, and CEQ is preparing the proposed rulemaking in 2019.

Realizing Better Performance

With fewer unknowns a year and a half into the streamlining initiative and with processes and regulations becoming more refined at every step, developers and investors should grow more confident engaging in new projects. ICF will continue to monitor and share changes as they occur, and we encourage you to reach out to our team with your questions as you navigate the ever-changing streamlining landscape.

Streamlining is an elusive goal, given the need to assess complex environmental effects, take into account the input and perspectives of numerous stakeholders and the public, apply the many cross-cutting imperatives of environmental statutes other than NEPA, meet the institutional prerogatives of different federal agencies, and comply with the legal requirements of NEPA itself. The new EO seeks to promote better federal performance through process and accounting improvements.

Achieving an average two-year target will require skill, dedication, and decisiveness in planning, initiating, and conducting environmental reviews and permitting processes. Agencies and practitioners need to examine their approach to meet the expectations of the EO.
Meet Your ADC10 Committee Members

Thanks to our current and past committee members for supporting ADC10’s initiatives. Committee membership includes participants from federal agencies, state DOTs, state/local/regional transportation and planning agencies, academia, attorneys, and professional consultant firms.

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<th>NAME</th>
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<td>Engineering Manager</td>
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<td>ICF</td>
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<td>Christine Gerencher</td>
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<td>Jack Allen</td>
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<td>Elizabeth Rushley</td>
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<td>Erica Schneider</td>
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<td>Assistant Environmental Administrator</td>
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<td>Member</td>
<td>Texas Department of Transportation</td>
<td>Deputy Director, Environmental Affairs Division</td>
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<tr>
<td>Ronald DeNadai</td>
<td>Emeritus Member</td>
<td>–</td>
<td>Professional Engineer</td>
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<td>Robert Jacobsen</td>
<td>Emeritus Member</td>
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<td>Principal</td>
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<td>Douglas Smith</td>
<td>Emeritus Member</td>
<td>AECOM</td>
<td>Senior Environmental Planner</td>
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<tr>
<td>Thomas Weck</td>
<td>Emeritus Member</td>
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FOR MORE INFORMATION
https://www.mytrb.org/OnlineDirectory/Committee/Details/1184 or
https://trb-adc10.weebly.com/members.html
COMMITTEE MEMBER PROFILE

SUE THEISS
Texas Department of Transportation

Sue Theiss, Deputy Director, Texas Department of Transportation (TxDOT) Environmental Affairs Division, likes to experience change—and to institute it. Although she studied pre-law at the University of Texas, Austin, environmental classes from high school and college called to her. In her career, the technical details and locations have changed, but they have always focused on environmental issues. After college Sue worked for a consulting firm conducting Phase I audits across the southwestern United States, then transitioned to NEPA consulting in Houston, Texas. As her career progressed, she worked in Jefferson County, Washington, conducting development reviews, returned to NEPA consulting in Houston, then served as Conservation Section Manager for the Environmental Directorate at Edwards Air Force Base in central California. Sue returned to Houston as the District Environmental Supervisor for the TxDOT Houston District and ultimately moved to the agency’s Environmental Affairs Division in Austin.

This varied career equipped Sue for her position leading TxDOT’s NEPA Assignment program. She supported the program launch as a member of TxDOT’s NEPA Assignment implementation committee while in the Houston District. Once in Austin, Sue was in charge of implementing the NEPA Assignment program, overseeing the initial five years of the program, including FHWA audits and statewide training for agency staff and external coordinating parties. Sue continues to manage the NEPA Assignment program.

COMMITTEE FRIEND PROFILE

SILVIA BELTRE, P.E.
Stantec

Silvia Beltre knows Florida transportation infrastructure. She has built a career conducting NEPA reviews for the Florida Department of Transportation (FDOT) and local and regional transportation, tollway, and expressway clients.

She graduated from the University of Miami with a double major in civil and architectural engineering, and began her career working as a civil engineer focused on bridge design. An opportunity to conduct NEPA review for a small bridge changed her career trajectory. Like most of us involved with ADC10, Silvia “fell in love” with NEPA. Specifically, she responded to the public involvement and community interactions linked to NEPA and the ability to hear and respond to concerns of the communities affected by transportation projects. She also enjoyed the big picture planning aspects of NEPA.

Since that initial NEPA bridge analysis, Silvia has expanded her work to focus on Project Development and Environment (PD&E) projects, Florida’s state-level NEPA project review process. She now leads Stantec’s PD&E practice in Florida, which includes highways, bridges, express lanes, toll roads, and urban arterials. She has also been involved in emerging complete streets projects that consider converting one-way street grids back to traditional
and the agency’s internal environmental training activities.

Sue learned about TRB from her colleague, Doug Booher, who suggested she get involved with TRB, and ADC10 in particular. Sue was appointed to ADC10 in April 2018 and participated in last year’s mid-year committee meeting in Orlando. The public and private sector experience she brings to the committee and her deep insights into the NEPA Assignment process are already benefiting the committee’s work.

Sue understands that not everyone thrives on change, but she counsels young professionals looking at an environmental career to be open to all aspects of the industry. And to peers, Sue’s career progression reminds us of the many ways our work allows us to reach environmental and transportation goals.

two-way operations. Silvia was also instrumental in assisting the FDOT apply for and implement the NEPA Assignment Program.

Silvia learned of TRB from her colleague Tom Creasy, who is actively involved in traffic operations. She became an ADC10 Friend in 2019. At Tom’s suggestion, Silvia attended her first annual meeting in 2019. Highlights for Silvia were poster sessions, technical presentations and the ADC10 Committee meeting. She was especially interested in technical sessions about the monarch butterfly, given the species’ threatened status with U.S. Fish & Wildlife Service.

Silvia’s advice for engineers and planners starting a NEPA career is to learn the process early on and not to forget about the importance of public involvement in our work.