The last two Administrations, along with Congress, took important steps to improve the permitting processes for large infrastructure projects. The permitting reforms contained in the Infrastructure Investment & Jobs Act (IIJA) will help accelerate permitting timelines. Yet, the Administration’s ambitious goals for the energy transition and infrastructure investment mean that our nation needs to drive down the time required for environmental reviews even further. Enhanced coordination and efficiency at the federal, state and local levels can allow us to engage stakeholders and make decisions more quickly while also protecting the environment and strengthening communities. Accordingly, below are the Business Roundtable’s key recommendations for additional improvements to the permitting process.

## NEPA

The Council on Environmental Quality (CEQ) should retain key streamlining features of the 2020 update of its National Environmental Policy Act (NEPA) rules.

- **Joint lead agencies and single environmental documents** “to the extent practicable,” and integrating NEPA reviews with other analyses “to the fullest extent possible.” 40 C.F.R. §§ 1500.4, 1500.5, 1501.7, 1502.25(a).

- **Concurrent reviews by agencies.** §§ 1500.1, 1502.24.

- **Time limits** – 1 year for EA; 2 years for environmental impact statements (EIS), unless senior official approves longer. §§ 1501.10, § 1502.2.

- **Schedules**, with milestones for all reviews, in consultation with all participating and cooperating agencies, with dispute resolution by CEQ. §§ 1501.7, 1501.8.

- **Definition of “major federal action.”** § 1508.1(q).

- **Page limits** – 150 pp.; 300 for unusual scope or complexity (unless senior official approves longer). § 1502.7
The President should direct all agencies to make permitting decisions within 90 days of issuing a record of decision.

- Both FAST-41 and the surface transportation statute require this as the default, with reasonable exceptions. It should apply across the board.

Agencies should make greater use of programmatic environmental impact statements (PEIS).

- The programmatic reviews extensively used by the Forest Service, Bureau of Land Management (BLM) and Bureau of Ocean Energy Management with respect to new leases, including recently conducted leases for wind projects and solar projects in the southwest, should serve as a model.

- PEIS should include “solar energy zones” – areas well suited to solar energy development, with limited environmental and cultural impacts and with access to transmission corridors – and similar designations for areas well suited to wind and geothermal projects and transmission lines.

- BLM should be required to identify priority areas for wind/solar/geothermal development and to include these in its PEISs. Priority areas should be given (i) the highest priority for incentivizing deployment in them; and (ii) the opportunity to participate in any regional mitigation plan developed for them.

Agencies should make greater use of categorical exclusions (CEs).

- Agencies should develop categorical exclusions (CEs) to the broadest extent permissible under the law. The surface transportation statute already requires the U.S. Department of Transportation to identify Federal Highway Administration categorical exclusions that would accelerate project delivery if available to the U.S. Departments of Interior, Commerce, Agriculture, Energy, or Defense, and requires those agencies to adopt them if they meet CEQ standards for CEs. The President should expand this directive across the federal government.

- CEQ should provide guidance on:
  a. CEs that can be utilized at the department level or across the executive branch, which would allow agencies with similar or overlapping jurisdictional authorities to utilize any applicable CE.
  b. How to ensure that a CE from another agency fulfills an agency’s legal requirements.
FAST-41

The Permitting Council and agencies should offer greater financial incentives to states and local governments to participate in coordinated environmental reviews:

- Executive Director of the Permitting Council should fully utilize, and maximize leverage from, the new ability to transfer funds to state, local and tribal governments to facilitate participation in reviews of FAST-41 covered projects.
- Offer more IIJA funds to states with designated infrastructure coordinators.
- For any wind or solar project sited on federal land, the federal government should turn over 25 percent of any payments from the developer to the relevant state and another 25 percent to the relevant county or counties.

FAST-41-covered projects should be considered priorities and resourced accordingly by lead and cooperating agencies.

Nationwide Section 404 Dredge and Fill Permits

The Army Corps of Engineers has issued roughly 60 nationwide permits that authorize, at a national level, activities that could result in the discharge of dredge or fill material into navigable waters. These permits are premised on the idea that particular activities have predictable impacts and mitigation approaches. As a result, these permits save individual projects falling within their scope from having to separately apply for a Clean Water Act Section 404 permit and thus produce enormous efficiencies. The Administration should preserve the use of nationwide permits by (a) clarifying that programmatic Endangered Species Act (ESA) consultation is not required or (b) creating a framework for expedited programmatic ESA consultation.
Endangered Species Act (ESA)

To further accelerate the deployment of clean energy infrastructure, a more efficient and effective process to meet the obligations under the ESA is needed. Additional agency resources dedicated to these issues at the beginning of the permitting process, more focused attention to ESA issues at the commencement of permitting, and enhanced staffing at agencies with responsibility could each help promote expeditious permitting while ensuring obligations under the ESA are met. In addition, changes to the Incidental Take Permit process and incentivizing voluntary conservation efforts can help meet the dual goals of accelerating the energy transition while faithfully promoting protection of endangered species as required by the ESA.