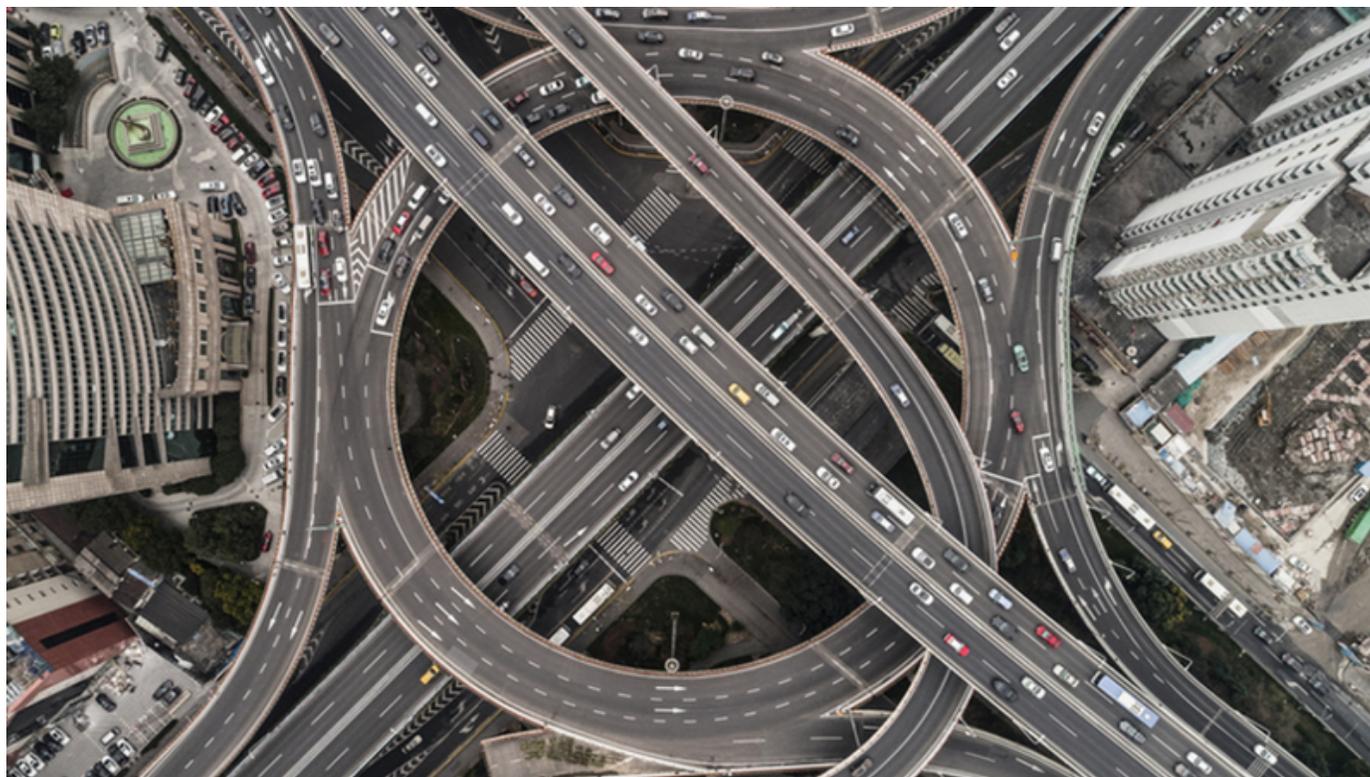


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What President Trump's Infrastructure Agenda Gets Wrong

Alejandro E. Camacho



The Administration's goal of "streamlining" infrastructure review is fundamentally misguided.

At the outset of the Trump Administration, policymakers of all stripes hoped infrastructure might be an issue on which Congress and the President could reach bipartisan agreement. President [Donald J. Trump stressed](#) infrastructure needs during and after the 2016 election, and members of Congress from both parties [asserted](#) that

repairing and upgrading infrastructure was a top priority. Recently, President Donald Trump and congressional Democrats [claimed](#) to make progress over the possibility of a \$2 trillion infrastructure package. But more than two years into the Trump presidency, the nation has little to show for all that talk, aside from unworkable policies and [elusive](#) proposals.

The United States clearly needs a nationwide effort to repair existing roads and bridges, upgrade public transportation systems, [build](#) out green infrastructure, and [retrofit](#) private and public buildings for the energy future. The government has failed in that effort so far, and one of the main barriers has been President Trump and his Administration.

Rather than using public investments to meet essential needs, the President instead floated an ill-fated infrastructure [proposal](#) relying largely on corporate spending, tax changes, and car-based transportation.

The Administration has also fabricated a desperate need for “[streamlining](#)” the infrastructure review and permitting process—code for evading or ignoring the health, safety, and environmental safeguards that Congress and agencies have put in place to guard against pollution, worksite dangers, and ecological destruction. The President turned that approach into official policy in August 2017 when he signed [Executive Order 13807](#), titled “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure.”

The [supposed](#) purpose of Executive Order 13807 is to support infrastructure development by making federal authorizations, and in particular environmental reviews under the [National Environmental Policy Act](#) (NEPA), more “efficient.” The order [seeks](#) to profoundly change the federal permitting process for major infrastructure projects and could affect our infrastructure, economy, and environment for decades.

Unfortunately, it is an aggressive and unnecessary effort to slash the time and resources agencies spend planning and assessing major infrastructure projects. One of its most noteworthy provisions [establishes](#) a performance goal for all environmental reviews, public discussions, and authorizations for major infrastructure projects, requiring them generally to be completed in approximately two years, regardless of the proposal’s complexity.

Mind you, no evidence supports the idea that there are substantial delays in federal permit processing, nor that a two-year target would produce faster infrastructure upgrades or repairs. The underlying assertions of the order have been thoroughly discredited, including by [think tanks](#), [news organizations](#), and the nonpartisan [Congressional Research Service](#). Others [explain](#) that cutting the environmental review process short would not speed up the infrastructure improvement process.

Rushing the planning process may be penny-wise but pound-foolish. Less than a quarter of environmental reviews are [completed](#) in two years or less, and the percentage is likely smaller for the big projects covered by the executive order. Agencies will inevitably cut corners to meet the arbitrary two-year deadline, resulting in unnecessary delays as agencies are forced to go back to correct mistakes in response to successful court challenges.

The second major change that the executive order establishes is a “one federal decision” policy, which requires federal agencies to publish all decisions on authorization for major infrastructure projects in a single record of decision. To accomplish this, the order substantially increases the roles of the [Office of Management and Budget](#) and the infrastructure development agencies in the permitting and environmental review process. The executive order essentially assumes that increasing OMB’s oversight duties will reduce administrative costs. However, these poorly designed coordination mechanisms will increase the number of tasks agencies must undertake and could actually increase administrative costs.

More importantly, the change gives outsized authority over the review and permitting processes to agencies that have a history of indifference and resistance to environmental protection. Key to the past effectiveness of environmental review under NEPA has been providing environmental agencies the capacity to improve the decisions of development agencies, not the other way around.

Despite the President’s rhetoric about the dire need to redesign infrastructure permitting and environmental review, the adopted changes are fundamentally ill-considered. They are not intended to lead to more efficient planning or better infrastructure, but rather to get projects approved quickly and cheaply. Advancing administrative efficiency is not an unreasonable goal, but it is reckless policy if it actually increases inefficiency and leads to hasty, risky development.

By contrast, Congress, working with the Obama Administration, already adopted significant changes to permitting processes to improve efficiencies and increase effectiveness. President [Barack Obama instituted](#) standards and deadlines for increasing agency coordination and efficiency, mechanisms for resolving interagency difficulties, dedicated staff and a clearinghouse to promote coordination.

In 2015, Congress passed—in rare, bipartisan legislation—the [Fixing America's Surface Transportation Act](#), codifying most of the Obama Administration's reforms. These initiatives were dedicated to streamlining, but crucially they recognized that effectiveness matters and that arbitrary deadlines would only reduce the effectiveness and efficiency of a review.

The Trump executive order does not even consider other policy changes that might be more efficient and effective: decreasing overlap in agency authority; promoting inter-agency coordination in project implementation and compliance review; or developing ways to review agencies' performance based on the effectiveness of their planning process, instead of how cheaply and quickly it is circumvented.

Predictably, the Trump Administration ignores what studies *have found* to be the key cause of delay—lack of resources, not only for processing permits and in environmental review but also for construction, once projects are approved. [The Army Corps of Engineers](#) for example, actually has a backlog of shovel-ready projects that *dwarfs* their annual budgets. Yet the Administration continues to push for budget cuts, and its proposed infrastructure plans *combine* inadequate funding with misguided ideas to privatize infrastructure financing and development.

The United States needs to repair, rebuild, and retrofit infrastructure, and do it on a nationwide scale. But to do it right, the nation needs to develop smart, sustainable approaches that encourage public and private investments, innovation, energy efficiency, renewables, less polluting construction practices, and development that does not bulldoze wildlife and the habitats they—and we—need to survive and thrive. That may not be possible at present given the ideological intransigence of Team Trump, but that does not mean agency officials and experts cannot start planning now for progress in the next administration.



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The views expressed in this essay are those of the author and do not necessarily represent the views of University of California, Irvine School of Law.

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