

# Regulatory Update and Infrastructure Initiatives

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US Army Corps of Engineers  
**BUILDING STRONG**®



# Regulatory Mission

To protect the Nation's aquatic resources, while allowing reasonable development through fair and balanced decisions.



# Regulatory Authorities

- ***Section 10 Rivers & Harbors Act of 1899*** – Regulate all structures or work in, over or under navigable waters of the U.S.
- ***Section 404 Clean Water Act*** – Regulate discharge of dredged or fill material in waters of the U.S., including wetlands
- ***Section 103 of the Marine Protection, Research and Sanctuaries Act*** - Regulate transport of dredged material for the purpose dumping in the ocean





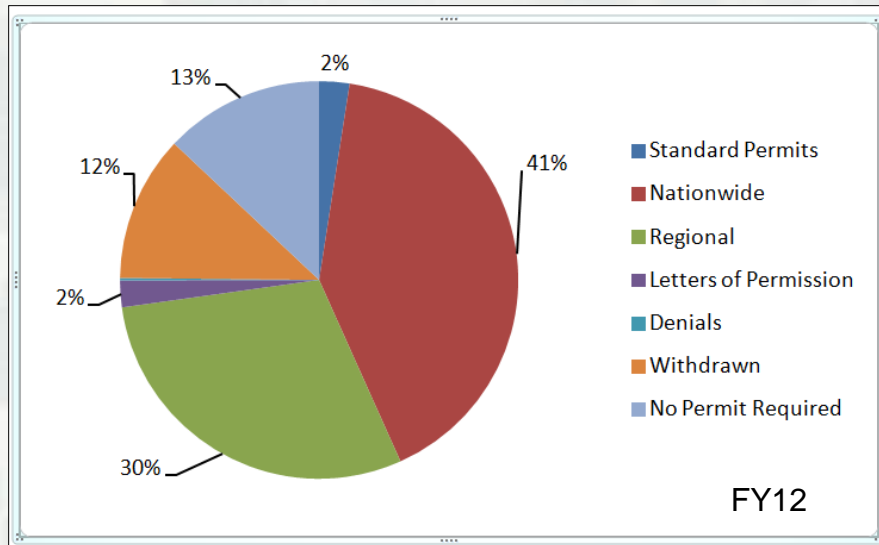
# National Program Annual Facts

- Over \$220 billion of economic development is affected annually by ~1,300 Corps regulators
- ~54,000 written authorizations affecting waters of the U.S., including wetlands
  - ▶ 75% on private property
  - ▶ 25% on government, tribal, NGO lands
- Large-complex-controversial to small-simple-routine projects
- ~58,000 jurisdictional determinations
- ~90,000 applications processed
- ~2,000 compliance/enforcement cases
- ~60 appeals cases (permit denials, jurisdictional determinations)



# Permit Statistics

## ALL PERMIT DECISIONS FY 2010, 2011 and 2012

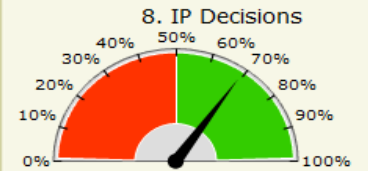
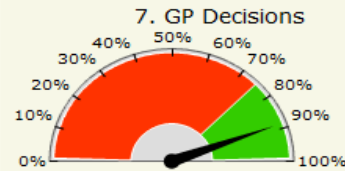
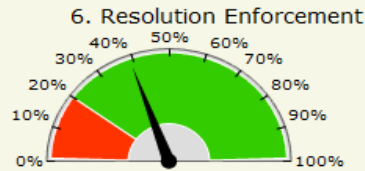
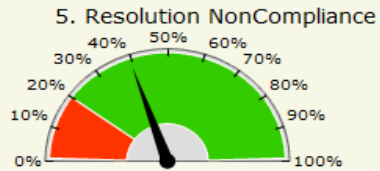
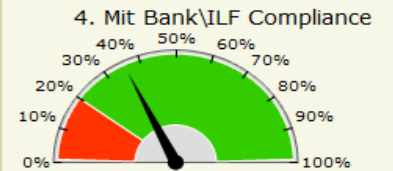
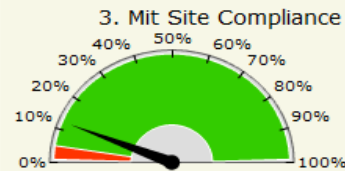
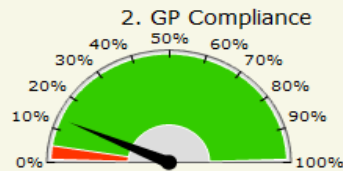
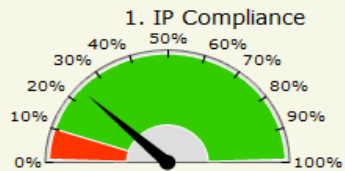


<u>TOTAL FINAL ACTIONS</u>			
	<b>FY10</b>	<b>FY11</b>	<b>FY12**</b>
Standard Permits	2094	1939	2030
Nationwide	32150	28385	33800
Regional	21509	23463	24400
Letters of Permission	1598	1616	1800
Denials	259	135	165
<i>Withdrawn</i>	<i>10282</i>	<i>9508</i>	<i>9820</i>
<i>No Permit Required</i>	<i>9898</i>	<i>9508</i>	<i>10730</i>
<b>TOTAL</b>	<b>77,790</b>	<b>74,911</b>	<b>~83,000</b>

\*\* Source: ORM2  
Data Run 30 Sep 2012



# Regulatory Performance



FY12

**Regulatory Program Exceeded All 8 Performance Measures for the Fourth Year in a Row**

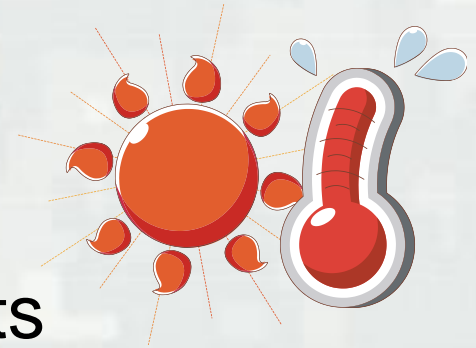


# Corps Campaign Plan

- Developed to transform the way the Corps does business
  - ▶ Superior performance, setting the standard, making a positive impact, building to last (educated, trained, experienced, and certified professionals)
  
- Civil Works Campaign Plan – Transform Civil Works
  - ▶ 2c: Improve USACE Methods of Delivery to produce quality engineering solutions and services on schedule
  
- Regulatory Campaign Plan
  - ▶ Civil Works 2c5: Increase watershed tools, science and technology, and web-based efforts to ensure Regulatory program is accessible and transparent and has efficient project permit decisions.



# Hot Topics



- Waters of the U.S.
  - 2012 Nationwide Permits
- 2013 National Wetland Plant List
  - Stream Assessments
- Cumulative Effects Analysis
  - Regulatory Reform
- Administration Initiatives
  - ▶ Infrastructure
  - ▶ Aquaculture
  - ▶ Sandy recovery





# Transportation Rapid Response Team (T-RRT)

- Formed in Fall 2011 in response to the 8/31/11 Presidential Memorandum entitled *Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review*
  - ▶ Listed 14 Presidential priority infrastructure projects and required tracking on the “Dashboard” located at <http://permits.performance.gov>
- Tracked 6 transportation projects from 2011 PM
  - ▶ Provo Westside Connector, Tappan Zee Bridge, Baltimore Red Line, Crenshaw/LAX, Whittier Bridge, NextGen Houston Metroplex (no Corps involvement)
- Other initiatives: Synchronized Decisionmaking, MAP-21 Implementation



# Rapid Response Team Transmission (RRT-T)

Objective: Implement June 2013 PM. Identify and work to expedite permitting and environmental reviews for renewable energy and transmission projects

- Established in 2011 in response to the 31 Aug 2011 Presidential Memo on Speeding Infrastructure: <http://www.whitehouse.gov/the-press-office/2011/08/31>
- Based on the 2009 MOU for Siting of Transmission Lines on Federal Lands: <http://www.whitehouse.gov/blog/2009/10/28/transmission-siting-federal-lands>
- Expanded as a result of EO 13604: *Improving Performance of Federal Permitting and Review of Infrastructure Projects* issued 22 March 2012
- Revised in response to June 2013 Presidential Memo to develop a pre-application process as outlined in PM.





# Infrastructure EO

- EO 13604: *Improving Performance of Federal Permitting and Review of Infrastructure Projects*
- Issued 22 March 2012, established a Steering Committee to execute the EO requirements
  - ▶ Tracking of Nationally or Regionally Significant Projects on an improved Dashboard
  - ▶ Federal Plan
  - ▶ Agency Plans



# Nationally or Regionally Significant Projects (NRS)

- Large scale, multi-jurisdictional infrastructure projects that improve the safe, secure, reliable and efficient movement of people, goods, energy and information to strengthen the nation's economy.
  - ▶ Interstate component
  - ▶ Involve multiple federal agencies
  - ▶ Involves multiple state, local and/or tribal government agencies
  - ▶ Considerable regional jobs and/or economic development impact
  - ▶ Estimated project cost exceeds \$75M
  - ▶ Directly affects the start of other NRS Projects
  - ▶ Pilots new strategies for expediting permitting and review of infrastructure projects or highlights successful strategies already in place
- Nominated by any of the agencies listed in the EO
- Columbia River Crossing, California High Speed Rail, Charleston Post 45 Study, New York/New Jersey Harbor, and others



# ***A Federal Plan for Modernizing the Federal Permitting and Review Process for Better Projects, Improved Environmental and Community Outcomes, and Quicker Decisions***

- The idea is to streamline the environmental reviews of infrastructure projects and improve transparency of the decisionmaking process by institutionalizing best practices
  - ▶ Early coordination and communication
  - ▶ Use of cost-recovery authorities (agency liaisons)
  - ▶ Concurrent, coordinated, and collaborative reviews (synchronized decisionmaking)
  - ▶ Establishing Integrated Project Plans
  - ▶ Establishing Regional RRTs
  - ▶ Tracking more projects on an improved Dashboard
  - ▶ Public display of timelines and target schedules for review of infrastructure projects







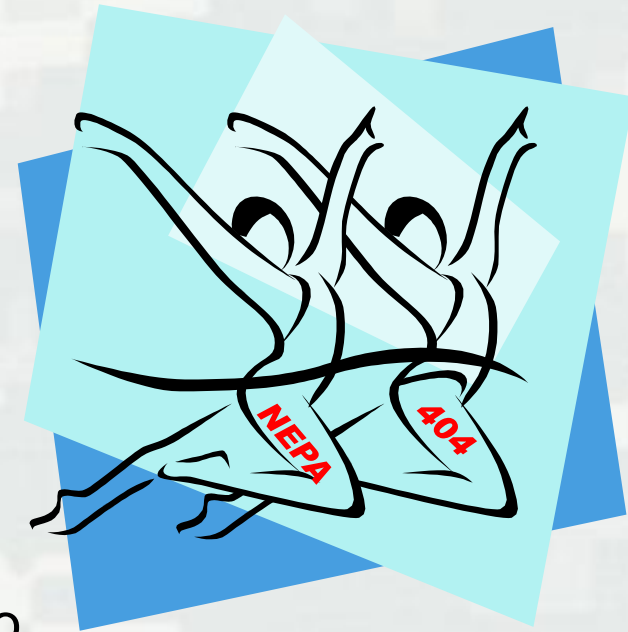
# May 2013 Presidential Memorandum

- *Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures*, issued May 17, 2013
- Builds upon EO 13604 by directing implementation of best practices identified in Federal Plan and Agency Plans
  - ▶ Continuity of the Infrastructure Steering Committee from EO 13604
  - ▶ Goal of cutting the aggregate time in review for major infrastructure projects in half
- 120-day Implementation Plan in development
- OASA(CW) and HQUSACE participation, including Regulatory



# Synchronized Decisionmaking

- AKA NEPA/404 Merger Agreements
- Traditionally between State DOT, FHWA Division, and Corps District(s)
- An interagency agreement for concurrent 404 and NEPA reviews, which allows for more 404 concerns to be considered early in the NEPA process
- Typically includes “concurrence points” at milestones and dispute resolution procedures
- Usually results in being able to adopt more, if not all, of the lead agency’s NEPA document to support our permit decision, reduces need for supplemental EIS, or completion of other robust analyses to support our permit decision



# Synchronization Workgroup

- 1988 “Red Book” on Applying the Section 404 Permit Process to Federal-aid Highway Projects
  - ▶ Effort by FHWA, USACE, EPA, FWS, and NMFS
- Working on a “refresh” including applicability to other modes of transportation and sectors of infrastructure
- Support from CEQ and OMB
- Rough draft in 2014



# Authorities for Funding Agreements

- Section 214 of the Water Resources Development Act (WRDA) of 2000 (Public Law 106-541)
  - ▶ Secretary of Army, after public notice, may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army
  - ▶ Public Law 111-315 extended authority to 2016
- Section 6002 (j) of the Safe Accountable Flexible Efficient Transportation Equity Act (SAFETEA-LU)
  - ▶ Secretary of Transportation may approve a request by a State to provide funds to affected Federal agencies (including the Department of Transportation). Funds must support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State.



# FY 12 Funding Agreement Facts

- In FY2012, there were 52 active agreements in 19 different states (8 new agreements this FY)
- 20 Districts received approximately \$9 million to augment their budgets, expending \$7 million of that
- Agreements supported over 34 FTEs that reviewed EIS or large complex project(s), multiple minor applications, and/or developed programmatic initiatives like Regional General Permits





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**Questions?**

