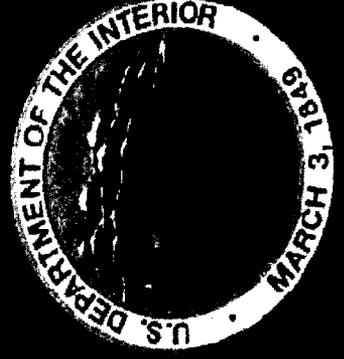


Facilitating
Responsible
Offshore Renewable
Energy

July 21, 2011

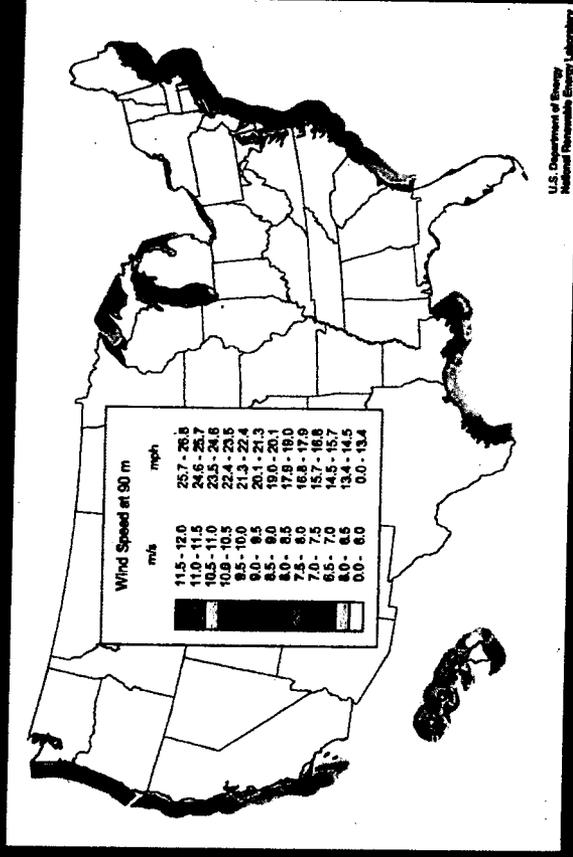


Overview

Energy Policy Act of 2005 provided Secretary of the Interior with authority to regulate a broad spectrum of activities on the Outer Continental Shelf (OCS), including production, transportation, and transmission of renewable energy.

Background

- Atlantic Offshore Wind: major renewable resource close to load centers; proven technology (Europe, China)
- Initial Offshore Wind Experience: Cape Wind
 - Proposed in 2001 prior to BOEMRE authority to regulate renewable development on OCS
 - Characterized by unclear federal jurisdiction, multiple NEPA reviews, no early commitment to outreach – resulted in 10 year process



Department of the Interior Efforts

- BOEMRE finalized regulatory framework under new EPAAct authority in 2009 – President’s Earth Day announcement
- Clarified jurisdictional issues with FERC
- Launched “Smart from the Start” Initiative
 - Emphasize ‘landscape level’ planning, interagency coordination, and stakeholder collaboration instead of reactive permitting regime
- Mirrors DOI onshore renewable energy efforts

Smart from the Start



- Identifying ‘right places’ for potential development:
 - “Wind Energy Areas” – areas with fewer resource & user conflicts
- Conduct appropriate NEPA analysis for each stage of development & streamline requirements when possible

Wind Energy Areas

- Identify potential 'fast track' areas for leasing – areas with fewer resource & user conflicts
- Identified through Intergovernmental Task Forces and with stakeholder outreach
- Proactively collect information and data about areas and make available to stakeholders, developers, investors, public
 - Helps identify potential conflicts early
 - Facilitates greater certainty in the process
- Areas to be refined as evaluation processes continue

Federal-State Coordination

- Atlantic Offshore Wind Energy Consortium (AOWEC)
Secretary Salazar & 11 Atlantic Coast Governors signed MOU in 2010
Promotes Federal-state cooperation and coordination
Working Groups: (1) Permitting and Regulatory; (2) Data and Science; (3) Investment and Infrastructure
- Atlantic Offshore Wind Interagency Working Group
Promote coordination across federal government; facilitate data collection; identify high priority issues
- Continued interagency coordination
 - Bilateral MOUs between federal agencies, promote collaboration
- Intergovernmental Task Forces

Intergovernmental Task Forces

- Created in 10 states (9 East, 1 West) so far
- State, local, & tribal governments, relevant Federal agencies participate
- Forum to:
 - Understand permitting & statutory responsibilities and stakeholder issues;
 - Exchange data about potential sites for development;
 - Share information about proposed projects, identify solutions to any issues

Data Collection

- Emphasizing early data collection on Wind Energy Areas
 - Federal government-led effort to collect relevant data, facilitate early identification of potential conflicts
 - Provides more certainty to developers, supports better-informed stakeholders
 - Consistent with CMSP principles
- Collected through intergovernmental/interagency groups
 - Hundreds of data sets received since Jan 2011
 - Using in environmental analysis; sharing publicly where possible
 - Identifying gaps and research priorities

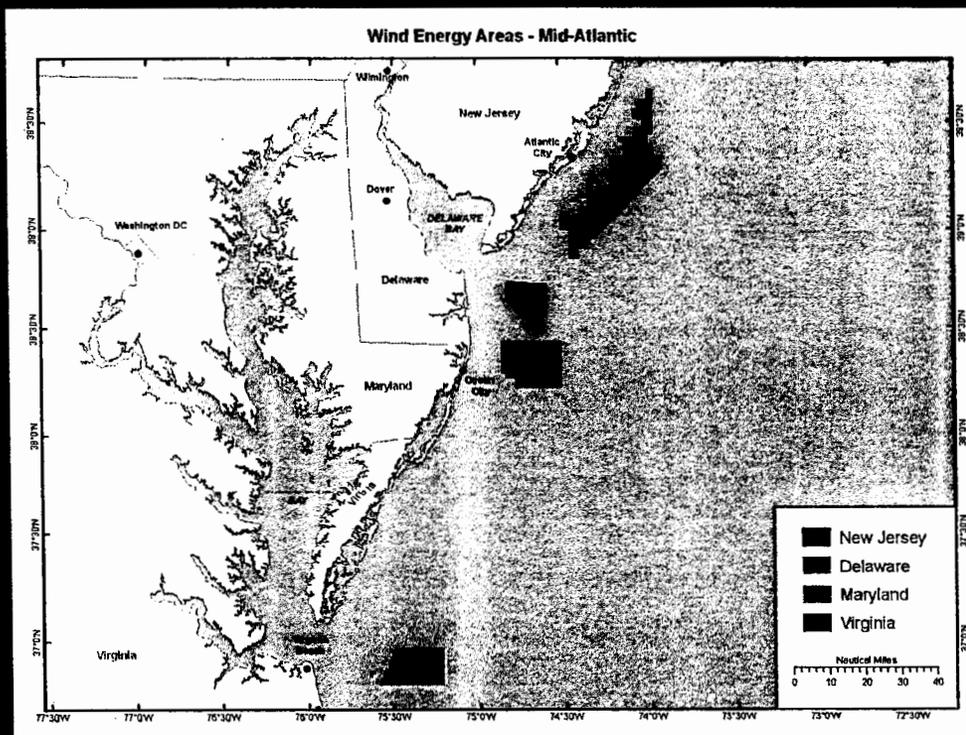
Streamlining Environmental Review

- Took hard look at regulatory requirements
 - Eliminating any unnecessary steps as we learn
- Identified appropriate NEPA process for each stage
 - Three main stages in process: (1) Leasing; (2) Site Assessment; (3) Construction & Operation
 - Leasing and site assessment activities unlikely to result in significant environmental impacts (warrants EA)
 - Result in lease issuance faster; will not provide right to develop
 - Detailed project-specific analysis (EIS) appropriate at Construction and Operation stage

Progress

- Preliminary Wind Energy Areas identified in 4 Mid-Atlantic States (DE, MD, NJ, VA)

Issued draft EA evaluating impacts of leasing & site assessment



- Will do similar processes in MA, RI, & NC
- Outreach & collaboration yielding benefits – e.g., refining potential wind energy areas based on known substantial user conflicts

Overview of Offshore Oil and Gas Permitting Reform

*Bureau of Ocean Energy Management,
Regulation and Enforcement*



July 21, 2011

Overview of Discussion

- Drilling Safety and Analysis Post-*Deepwater Horizon*
- Status of Permitting for Shallow Water Drilling
- Status of Permitting for Deepwater Drilling
- New permitting process improvements
- Upcoming permitting process improvements

Key Challenges for BOEMRE Following *Deepwater Horizon*

- **New Standards and industry reform:** Development and implementation of substantial new drilling safety standards and environmental protection measures.
- **Reorganization and internal reforms:** Reorganization of the former MMS into three new Bureaus to separate the following functions: (1) revenue collection, (2) resource management and drilling plan approvals (including NEPA analysis); and (3) safety oversight, including permitting of drilling operations and inspections.
- **Developing and implementing process improvements:** In addition to making structural changes to the offshore regulator through the reorganization, we are working with McKinsey and numerous implementation teams comprised of career staff to closely analyze the agency's internal processes and to implement changes to improve our programs and make our processes and systems more efficient.
- **Moving forward with offshore oil and gas exploration and development activity:** In the midst of designing and implementing sweeping reforms to offshore energy oversight, continue with permitting of oil and gas drilling activity that is essential to the national and regional economies and central to the country's energy policy.

New Standards Related to Drilling Safety Post-*Deepwater Horizon*

Rule	Key Provisions
The Drilling Safety Rule	<ul style="list-style-type: none">➤ Heightened new standards for well design, casing and cementing, pressure testing, and well control equipment, including blowout preventers➤ Professional engineer certification of each stage of the drilling process
The Workplace Safety Rule	<ul style="list-style-type: none">➤ Performance-based standards to reduce human and organizational errors➤ Requires operators to develop a comprehensive safety and environmental management program
NTL-06 (Worst Case Discharge)	<ul style="list-style-type: none">➤ Requires operators to submit well-specific blowout scenarios and revised worst case discharge calculations
NTL-10 (Requirements for Subsea Containment)	<ul style="list-style-type: none">➤ Informational requirements related to regulatory compliance and subsea containment➤ Corporate statement that operator will conduct proposed drilling operations in compliance with all BOEMRE regulations, including the new Drilling Safety Rule➤ Information demonstrating access to subsea containment resources that would be sufficient to promptly respond to a deepwater blowout or other loss of well control➤ Well by well analysis using tools developed jointly by industry and BOEMRE to determine whether the well can be shut in or a “cap and flow” solution is required

Permitting – Status of Shallow Water Permits

- Shallow-water operations were never subject to the moratorium, but shallow water drilling operators are subject to heightened environmental and drilling safety standards.
- It took industry time to adjust to these new standards, particularly compliance with the safety rules and new WCD calculations.
- However, since new rules were put in place in June 2010, BOEMRE has approved 65 new shallow water well permits.
- Since October 2010, BOEMRE has averaged nearly 7 permit approvals for new wells in shallow water per month. BOEMRE's current pace of permitting in shallow water is approximately the same as the 12 months prior to *Deepwater Horizon*.

Permitting – Status of Deepwater Permits

- Permitting of drilling operations in deepwater presented the additional challenge for industry and the agency of development of viable subsea containment systems necessary to address a deepwater blowout similar to Macondo.
- These containment systems did not exist prior to the spill and the development of the capping stack that ultimately shut in the Macondo well was improvised during the spill.
- NTL-10 requires operators for certain deepwater operations similar to Deepwater Horizon to demonstrate access to and the ability to deploy containment systems sufficient to respond to a subsea blowout.
 - Industry first demonstrated this capability, through two industry consortia, in February 2011.
 - In the five months since then, BOEMRE has permitted 20 deepwater wells requiring subsea containment.
- BOEMRE also has approved 42 permits for lower risk deepwater wells that do not require subsea containment (e.g., water injection wells and operations using surface blowout preventers).

Permitting – BOEMRE Process Improvements

- BOEMRE has implemented the following process improvements:
 - Permitting checklist
 - Completeness checks
 - Prioritization by submission
 - eWell status of reviews

Permitting – BOEMRE Process Improvements

Permitting Checklist

Issues	Addressing the Issues	Benefits
<ul style="list-style-type: none">➤ Operators were missing newly required information or had the wrong level of detail in APDs.➤ Often resubmissions were also incomplete due to a lack of clarity.	<ul style="list-style-type: none">➤ Checklist development followed multiple meetings with operators who requested additional guidance.➤ BOEMRE published a “completeness” checklist for offshore oil and gas operators to enhance transparency and processing of applications.➤ This high-level checklist is derived from BOEMRE’s review process and includes the main components that must be submitted by operators to make a permit application complete.➤ The checklist does not ensure approval of an application, but clarifies for operators what is needed in their submission.	<ul style="list-style-type: none">➤ Overall cycle time saved from fewer returns.➤ Clarified needs to operators.

Permitting – BOEMRE Process Improvements

Completeness Checks

Issues

- Engineers spent time reviewing APDs that did not have complete information, and were returned.
- Operators lost time during engineering review and then had to start the process over with a new APD.

Addressing the Issues

- BOEMRE personnel are conducting completeness checks to improve the efficiency of the review process and reduce the number of permits returned to operators.
- Checks will precede an in-depth, substantive review of the application.
- Bureau personnel will identify significant omissions during the initial review to identify applications that are not ready for full review.
- Deficiencies and omissions will be communicated to the operator for correction.
- This does not guarantee that incomplete information will not be found later in the review, but the completeness check is designed to capture the major gaps in the submission early in the review process.

Benefits

- More efficient use of engineer time.
- Overall cycle time saved from fewer returns.

Permitting – BOEMRE Process Improvements

Prioritization By Submission

Issues

- Engineers were working multiple APDs at once, with little clarity to Operators on time to completion.
- Different practices across districts led to different review time experiences for Operators.

Addressing the Issues

- In an effort to ensure efficiency, permits found to be complete will have a higher priority in the review process.
- The bureau has established priorities for reviewing permit applications as follows:
 1. Relief wells and safety-related/critical emergency operations
 2. Permits for ongoing operations, such as sidetracks or deeper exploration of an existing well;
 3. Applications deemed complete; and
 4. If staff time allows, applications that are not deemed complete (e.g., those missing a required containment plan or the necessary professional engineer certifications).

Benefits

- Shorter cycle time from increased focus.
- More consistent and predictable review times.

Permitting – BOEMRE Process Improvements

eWell Status of Reviews

Issues

- No transparency for the Operator into status of different components of the return (e.g., BOP review, containment review).
- Repeated calls to districts to find out status and what pieces were complete.

Addressing the Issues

- BOEMRE is adding to our online permitting system (eWell) a vehicle for operators to view the status of plan or APD reviews.
- Using an operator-specific access code, operators will be able to track the position of an application in the review process.
- This will help operators better understand the review process and where their applications are in the process.
- This status report will show operators when the APD or plan was sent to the reviewer, when the reviewer started and finished the review, whether the APD or plan was moved forward, and any comments from the reviewer.
- Operators will be able to determine whether their APD is in line to be reviewed or is actively being reviewed.

Benefits

- Increased visibility to quickly address delays.
- Increase in engineer time to review permits.

Permitting – Upcoming BOEMRE Process Improvements

- BOEMRE is continuing to review current processes and look for opportunities to further streamline the permitting process.
- Upcoming improvements include:
 - Further streamlining of exploration and development plans using online systems for submitting information (currently done in hard copy)
 - Increased staff training on permit reviews
 - Comprehensive how-to guide for engineers to include a permitting handbook
 - After hours answering service to increase expert availability and answer operator inquiries

Implementing Permitting Reform

"I think we've been rated 27th at this point in the speed of actually being able to construct something. Now, that's not very good. As you point out, I think there's a way for us to maintain our environmental standards, make sure that communities that are being affected by construction have a voice, but not just have layer upon layer of bureaucracy that is slowing projects up. ... I think that the recommendations you've put out are ones that we should take very seriously. ... I'm very excited about this; we're going to get on it."

President Obama, Meeting of the President's Council on Jobs and Competitiveness - 6/13/11 Durham, NC

The current system for permitting and approving job-creating projects in this country can be improved, like it has been in other countries. Our process is beset by unnecessary delays, excessive litigation, and inconsistent standards. We believe that the system can be improved, and job creation enhanced, by focusing on reforms in five major areas:

- 1) Data collection and transparency;
- 2) Early stakeholder engagement and time-bound reviews;
- 3) Centralized monitoring and accountability for federal agency performance;
- 4) Limiting duplication among local, state, and federal agency reviews; and
- 5) Better management of permit-related litigation risk.

Implementation of this reform agenda could take place in four stages, based on the degree of complexity required for individual components.

STEP ONE – DATA CALL

As a first step toward increasing transparency and awareness of federal permitting actions that affect job creation, federal agencies should be asked to submit basic information about the federal permit processes they operate. The most efficient way to collect and compile this information would be for the Office of Management and Budget (OMB) to issue a "Budget Data Request" (BDR) to all appropriate agencies. Analysis of the data to support further development of policy recommendations could be performed by OMB management staff, Council for Environmental Quality/Council of Economic Advisors or other relevant White House policy officials, and by the staff and consultants of the President's Council on Jobs and Competitiveness. We recommend that the BDR be developed and issued as soon as possible, with a reporting deadline of [three weeks]. We submit here the specifications for a draft BDR.

STEP TWO – POLICY GUIDANCE TO PERMITTING AGENCIES

There are a number of examples of permitting best practices already underway at various federal agencies or which could be implemented by administrative action alone. This includes requiring lead federal agencies to convene relevant stakeholders early in the process, prioritizing pending permit applications and National Environmental Policy Act (NEPA) reviews based on job-creation potential, setting and enforcing time limits on various stages of review (perhaps including an overall time limit for reaching a decision),

expanding the number and type of projects that can utilize NEPA categorical exclusions (including expanding the definition of “programmatic” Categorical Exclusions (CE) that ensure consistent CE treatment), and coordinating reviews with other government jurisdictions. Agencies should be directed to carry out these policy objectives through an Executive Order, which should be developed over the next month and issued in final form after reviewing the results of the data call.

STEP THREE – ORGANIZATIONAL CHANGES AND DATA MANAGEMENT

The White House should create a small, dedicated team to provide ongoing policy guidance, set performance goals, measure agency performance, and design an appropriate interface for disseminating government-wide data on past and pending permit/NEPA reviews. The primary mission of this organization would be facilitation of job-creating investment in the economy, consistent with other requirements in law, and it would be empowered to intervene in and resolve interagency disputes over particular projects, much like the Office of Management and Budget is currently empowered to resolve disputes over legislative and regulatory proposals. This organization could be created and empowered through an Executive Order in a matter of weeks; however, dedicated funding and staff would be required for an initial task force effort to design new standards and mechanisms for accountability and transparency.

STEP FOUR – LEGISLATION

The White House should initiate a policy process to determine which reforms require a change in law, and to develop a two-part legislative strategy to promote these reforms as part of pending reauthorization bills (e.g., surface transportation) and as a stand-alone, comprehensive reform bill. Most aspects of litigation reform would require a change in law, but since a great deal of inefficiency within the current system flows from fear of legal challenges, it is not enough to simply pursue administrative reforms. Opportunities for simplification of the process through administrative action will not always be pursued by stakeholders, since they will perceive a need to meet a higher standard dictated by courts.

Further detail on specific reform options follow.

Data Collection and Transparency

PROBLEM

As of today, there is virtually no transparency of permit status. Neither the public nor respective governmental groups can access information regarding the status of a permit's review. This lack of transparency keeps project sponsors and the public in the dark, and discourages current and potential investors of the project.

SOLUTIONS

From the moment a permit request is submitted, its status from beginning to end should be made available online for all stakeholders to see. This tracking process will make it possible for all stakeholders to know where a permit resides in the review process.

Initial Data Call

As a first step, federal agencies should be asked to submit basic information about the federal permit processes they operate, including:

- The underlying purpose of the agency's review of affected projects;
- Sectors of the economy most heavily impacted;
- The volume of applications submitted and processed over the most recent full year, and any multi-year trends in volume;
- The ratio of applications approved, denied, or withdrawn;
- The length of time required to reach decisions;
- Number of agency determinations challenged in litigation, cost of defending those determinations in court, time between agency action and final resolution of litigation, and success rate in defending agency decisions;
- Sponsor estimates of total project cost, and jobs associated with construction and ongoing operation; and
- Current methods of informing stakeholders and the general public of the status of projects and the rationale for decisions rendered.
- Concurrent non-federal permitting processes that typically apply to the same projects considered by the federal process.

Online Permit Tracking Tool

Responses to this initial data call would be used to inform the design of a public online permit tracker and a regime for holding federal agencies accountable for their performance. In addition, it will yield "best practices" data that can help guide federal efforts to improve processes across agencies.

Early Stakeholder Engagement and Time-Bound Reviews

PROBLEM

Because permitting requirements were developed in an iterative way, over time, there is no specific agency accountable for overall permit review timeframes. Each agency has a mandate to ask and answer specific questions associated with their own jurisdiction, but no individual agency is solely accountable to hitting time targets. As a result, permits remain in review far longer than necessary. Also, projects that are deemed “high priority”, especially when concerned with jobs creation, are often treated no differently than other projects that have negligible economic impacts. In fact, it is more likely that a project with politically influential supporters will be prioritized than one that increases economic productivity. In this time of high unemployment, new projects that will add a significant number of additional jobs should be given higher priority, and it should be the overseeing agency’s mission to streamline these particular projects through the review process.

As of now, there is no specific time frame with which a final decision must be issued to allow a project to proceed or not. Without a benchmark or an accountable agency, project opponents can keep permits in the review process for indefinite periods with all of the costs of such delay being absorbed by the broader economy and the project sponsor.

SOLUTIONS

Empowering Lead Agency Reviewers

For any given project, a single accountable agency must be given responsibility to ensure that the project is given due priority and that all relevant federal agency reviews are conducted and decided in a timely manner. It will be the obligation of this agency to guarantee that all permits spend the appropriate amount of time in review, and that any potential objection to the project be raised early in the review process. Projects that generate large net economic benefits, for example, should carry a presumption that a permit will ultimately be issued if impacts can be mitigated.

Deadlines and Reliance on Available Streamlined Processes

Reviews should be limited to a matter of weeks or months, depending on the complexity of the project, though care should be taken to ensure that firm deadlines are not simply enforced as an automatic “no”. These deadlines would allow a sufficient amount of time for both the reviewing agency to conduct thorough analysis, while also giving stakeholders with legitimate concerns enough time to express their views. Opponents would need to come forward early in the process, rather than waiting until project sponsors and federal agencies have expended substantial time and effort in advancing the project through the review process.

There is ample precedent for this approach. On March 3, 2011, Minnesota Governor Mark Dayton signed a law establishing a standard “that environmental and resource management permits be issued or denied within 150 days of the submission of a substantially completed permit application. The commissioner of natural resources shall

establish management systems designed to achieve the goal.” Gov. Dayton had previously issued an Executive Order with a similar purpose and timetable.

The Federal Communications Commission in November 2009 issued a declaratory ruling which defines a “reasonable period of time” for state and local jurisdictions to act on tower siting applications as 90 days for a co-located tower facility, and 150 days for a new facility. If a jurisdiction fails to act, the project sponsor can file a claim for judicial relief within 30 days of such failure.

The Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the federal surface transportation authorization act signed by President Bush on August 10, 2005, contained numerous changes designed to speed consideration of highway, transit, and multimodal facilities that require a NEPA review, many of which could be expanded administratively to other agencies. The Department of Transportation (DOT) is designated as the lead environmental review agency for all such projects, and is charged with facilitating the expeditious resolution of the environmental review process. Federal agencies are directed to carry out all necessary legal obligations with respect to project reviews concurrently with the NEPA environmental impact review. According to a September 2010 DOT study, the average approval time for major projects requiring an environmental impact statement has been reduced from 73 months to 37 months as a result of these changes.

Section 1609 of the American Recovery and Reinvestment Act of 2009 (“Recovery Act”) requires that “adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized.” This directive could be expanded administratively to cover all projects subject to NEPA review, subject to available resources.

Centralized Monitoring and Accountability for Federal Agency Performance

PROBLEM

Currently, there are typically a multitude of different agencies involved in the overall project clearance process, but no single agency is truly in charge of oversight and accountability when the project requires multiple agency decisions. This is in contrast to other Executive Branch processes (major rulemakings and budget proposals),

SOLUTIONS

A single federal entity must be designated and given responsibility to ensure that permit reviews are processed efficiently and in accordance with submission deadlines. Assigning this responsibility will speed up the review process and permit a heightened focus on the most significant job-creating projects.

Initial Task Force

To achieve this goal we propose the creation of an interagency task force charged over the next 12-15 months with developing the appropriate goals, policies, standards, metrics, and accountability mechanisms that will guide government-wide permitting activity going forward. To ensure appropriate coordination and support, the task force should be led by a senior White House policy official and provided with administrative support from an appropriate Cabinet-level agency.

Permanent Interagency Council

After the end of FY 2012, responsibility for ongoing monitoring of permitting policies and performance would revert to an interagency council chaired by a White House official.

The Office of Information and Regulatory Affairs (OIRA) and the Legislative Reference Division within the OMB already perform a clearance and interagency resolution function for regulatory and legislative proposals. Likewise, OMB's Deputy Director for Management oversees multiple offices that set government-wide standards for agency performance in such areas as financial management, procurement, IT, improper payments, and real property. Most of these functions were established through administrative action, though some were later reinforced or modified through legislation.

Limiting Duplication among Local, State, and Federal Agency Reviews

PROBLEM

One of the major factors in delaying project permit approval is the multitude of avenues in which opposing parties can seek endless analysis regarding a project. As policy stands, project opponents can demand a project be reviewed numerous times even after their earlier complaints are rejected. Overlapping project approval requirements often occur at the local, state, and federal levels. While many states have attempted to integrate their processes to some extent into federal processes, new questions and issues are often raised by state/local agencies as a part of that process. Thus, while a process may appear to be "integrated", timeframes still greatly exceed the timeframe it would take for any individual agency to grant a permit.

In many instances, after a State government has determined that a project can proceed, the process starts anew at the Federal level which in many ways duplicates the State's efforts. More often than not, the verdict of the State's review is upheld by the federal government – achieving the same result, only months or even years later.

The problem in reverse can be seen when state or local processes are used to trump federal action to effectuate a national priority. Sometimes, the public interest justifies overriding local objections, but as long as these local concerns are given appropriate consideration, projects advancing the economic progress of the country as a whole should not be disrupted.

SOLUTIONS

Streamlining the process will allow for proper review on all necessary levels. A lead agency or coordinator should be charged with ensuring that repeat-reviews do not occur while making sure that all necessary steps are taken in the review process.

Greater Acceptance of State-level Determinations

The federal government would ensure sign off on the State's decision without having to start the review process over again from the beginning. In most cases, those agency officials at the State level are more versed in the facts of a particular permit review, and thus their decision should be automatically accepted. There is no use in reviewing the same set of facts twice at two different governmental levels.

SAFETEA-LU authorizes the Secretary of Transportation to allow States to determine whether surface transportation projects qualify for a categorical exclusion under NEPA, and also created a pilot program to allow up to five States to assume the duties of the Secretary of Transportation for environmental reviews, consultation, and decision-making for federally funded surface transportation projects. Unfortunately, federally-imposed reporting requirements made this unattractive to many States and only California has taken advantage of this opportunity to date. This type of authority should be expanded and streamlined legislatively to include more states and more types of projects.

Federal Preemption of State/Local Jurisdiction Where Justified by the National Interest

The Energy Policy Act of 2005 authorized the designation of “National Interest Electric Transmission Corridors” that gave the Federal Energy Regulatory Commission expanded powers to permit electric transmission lines, bypassing objections that may be raised in state and local jurisdictions. However, implementation of these corridors has largely been a failure, and this model must be reexamined to determine what changes are needed.

Parallel approaches have worked well at the State level. In 2008, Florida adopted the “Power Plant Siting Act” and the “Transmission Line Siting Act” to expedite approval of these projects. The Florida Department of Environmental Protection (DEP) leads a process to issue a single state certification, in lieu of multiple state and local permits under the previous regime. The DEP runs an integrated certification review that covers all state and local issues, including permitting, land use and zoning, and property interests. This centralized certification process, which has replaced the need for state and local permits, has streamlined the application process and reduced inefficiencies in the system. A certification grants approval for the location of the power plant and its associated facilities such as a natural gas pipeline supplying the plant's fuel, rail lines for bringing coal to the site, and roadways and electrical transmission lines carrying power to the electrical grid, among others.

One-Stop Shop Project Reviews

Another alternative under development is the creation of a federally created “One Stop Shop” that State/local governments could opt into, effectively foregoing their own reviews for an integrated regime with quicker decisions. States that choose to participate can help shape the design of the standardized review process, while those who want to maintain their own separate reviews can do so but run the risk of being at a competitive disadvantage relative to participating states.

Better Management of Permit-Related Litigation

PROBLEM

The default statute of limitations on lawsuits challenging federal actions such as NEPA decisions is currently six years. This is much too long. Opponents of NEPA decisions can wait until projects are far along the path toward construction to raise objections. Often, these parties are not raising specific environmental objections to the project, but rather are manipulating the looseness of the current environmental process to delay decisions. In addition, non-viable alternatives are often evaluated in order to eliminate litigation risks, not because the alternatives make economic or engineering sense. This wastes resources and encourages excessive amounts of analysis at the front end of the process. In addition, the perpetual litigation uncertainty associated with these projects is a major impediment to attracting private capital to large scale projects in the U.S. It is commonly understood that investors in such projects will not assume any regulatory risks of this kind. In most cases, opponents end up filing similar or even identical lawsuits through different jurisdictions and legal avenues, and the attempts of our judicial system to rationalize these challenges has been inadequate.

SOLUTIONS

Reduce Statute of Limitations

The statute of limitations for NEPA lawsuits should be reduced from six years to no more than six months. This will allow plenty of time for opposing parties to submit their cases in a timely fashion, especially since under parallel reform proposals they will have had ample opportunity to participate in the pre-approval review. This reform will ensure that multiple lawsuits of the same substance are not filed through different legal avenues, thus unnecessarily dragging out the litigation process, which can cost millions of dollars and thousands of jobs.

SAFETEA-LU provides for a 180-day statute of limitations to "use it or lose it" on judicial review of surface transportation projects. Without such a provision, the prevailing statute of limitations is six years. The 180-day statute of limitations cuts back on a typical project opponent practice of waiting until the very last day to file a lawsuit against a project. Because the primary motive of opponents is often to exploit the law to delay projects, a six-year statute of limitations becomes a particularly problematic tool in the hands of opponents.

Limit Judicial Review to Issues Previously Raised and Limit Scope of Alternatives Analysis

The Healthy Forests Restoration Act of 2003 (HFRA) contained a number of useful provisions for facilitating approval and initiation of forest management projects, and these principles could be applied to job-creating projects as well. HFRA allows federal agencies to limit required reviews under NEPA to the preferred agency action and one alternative, which reduces the potential grounds for litigation. Also, only parties who submitted comments during the scoping or environmental impact review can challenge an agency action, which is first considered by an agency reviewing officer and then in federal court. Court challenges must be issued within 15 days of final agency action, and judicial review

can only consider issues raised during the agency objection process. Any preliminary injunction issued by the court must be reviewed every 60 days and either explicitly extended or rescinded, and the courts are encouraged "to expedite challenges to the maximum extent possible".

President's Council on Jobs Creation: Lean in Government

Discussion document
July 21, 2011

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McKinsey & Company

Lean Management can help government agencies improve staff morale reduce risk and enable job creation through faster response rates

Lean is a management approach that takes a customer-back view to help the frontline identify and remove all activities that a customer does not value and pay for. Lean helps reduce this waste by:

- Eliminating unnecessary touchpoints and wait times throughout the end-to-end process
- Improving coordination across functional areas
- Reducing people and process variability through standardization

Lean Management consistently leads to double digit improvements in performance along multiple dimensions

- 20-30% productivity improvement
- 40-80% end-to-end process cycle time improvement
- 20+% reduction in quality errors and customer complaints

Lean Management also improves underlying health of organizations

- Renewed sense of common purpose across large organization
- Significant improvement in employee engagement and satisfaction
- Improved management systems and capabilities to continuously improve
- Improved flexibility to respond to external changes

**Improvements are typically realized and sustained within 6-9 months for key processes
(whole organizations transformed in 2-3 yrs)**

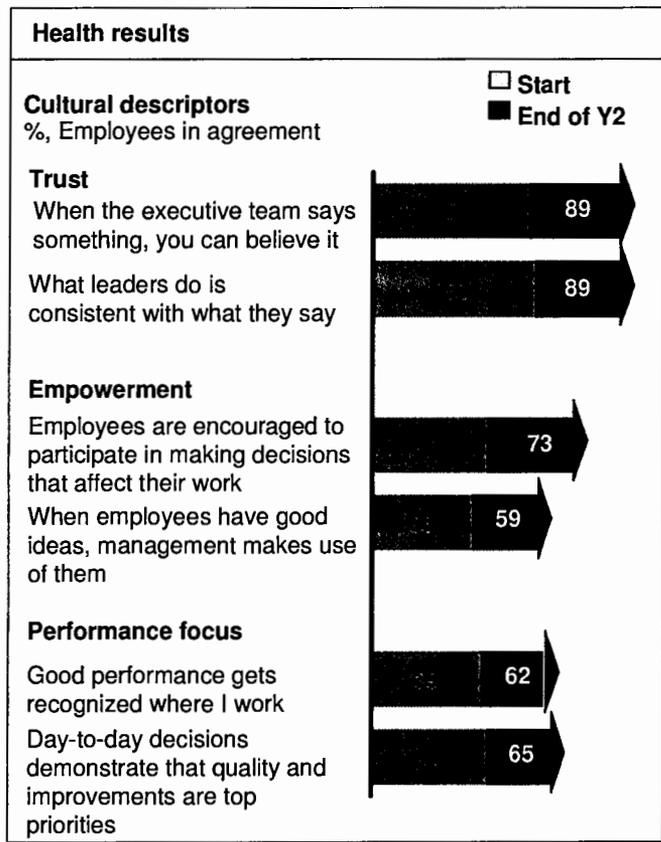
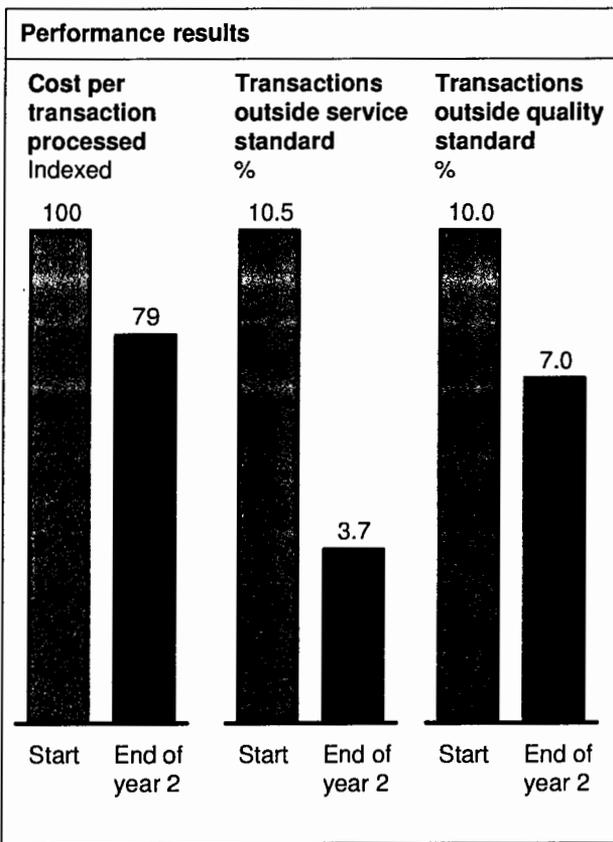
Lean can create significant shifts in performance for government organizations

EXAMPLES

Areas of government	Example improvements for which either potential efficiencies identified or tangible savings delivered
▪ Defence logistics	▪ 30% reduction in aircraft maintenance time
▪ Hospital waiting times and theatre utilisation	▪ 50% increase in utilisation of operating theatres
▪ Tax processing	▪ 75% increase in returns processed per FTE
▪ Employment advice	▪ 100% increase in quality counselling time
▪ Immigration and asylum processing	▪ 80% reduction immigration lead times
▪ Security clearance	▪ 90% reduction in clearance time
▪ Courts administration	▪ 20% increase in productivity
▪ Policy development	▪ 60% of resources identified as having the potential to be deployed flexibly

Lean Management leads to both performance and health outcomes

CLIENT CASE EXAMPLE
REGIONAL INSURANCE
OPERATIONS CENTER



The Lean Management approach is holistic and all elements are needed for a successful transformation

Process Efficiency

Focus on delivering customer needs at lowest cost and lead-time while securing position and building efficient processes to grow sales

Performance Management

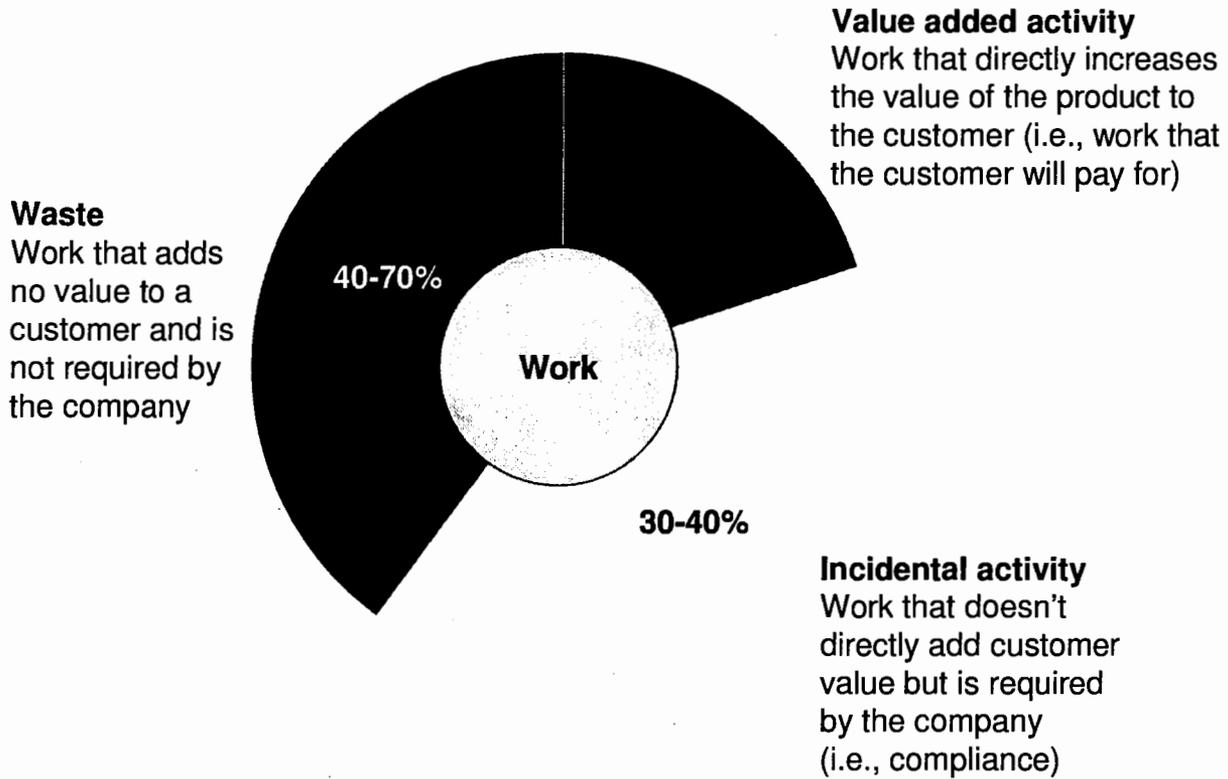
Actively monitor performance at individual and team level to identify opportunities for improvements

Customer

Mindsets and Behaviors



A lean transformation generates large one-time gains followed by continuous improvement by relentlessly rooting out waste in processes...



Eight types of waste

	What it is	What to look for
1 Overproduction	<ul style="list-style-type: none"> Producing too much, or producing too soon 	<ul style="list-style-type: none"> Effort not aligned with risk, complexity or needs of the customer More information requested than required
2 Overprocessing	<ul style="list-style-type: none"> Excessive processing of same item, task 	<ul style="list-style-type: none"> Similar information being captured in several places
3 Inventory	<ul style="list-style-type: none"> More WIP than is required to complete tasks, meet obligations 	<ul style="list-style-type: none"> Bottlenecks in workflow which lead to "staging areas" for work in progress
4 Waiting	<ul style="list-style-type: none"> Waiting for parts, documents, or a machine to finish a cycle 	<ul style="list-style-type: none"> Lots of "white space"/ idle time, waiting for information, return calls, unclear rules of game
5 Transportation handling	<ul style="list-style-type: none"> Non-essential transport 	<ul style="list-style-type: none"> Excessive back-and-forth, repeated follow-ups
6 Rework	<ul style="list-style-type: none"> Rework, errors leading to scrap 	<ul style="list-style-type: none"> Rejections, research due to mis-keyed data, rework loops
7 Motion	<ul style="list-style-type: none"> Excessive motion that does not add value 	<ul style="list-style-type: none"> Inefficient placement of office resources; physical distance between workstations
8 Intellect	<ul style="list-style-type: none"> Failure to utilize the time and talents of people 	<ul style="list-style-type: none"> Significant portion of expert time "wasted" on non-value added activities (e.g., chasing information/ people)

Process Efficiency: 4 lean “archetypes” to transform common end-to-end value streams in service organizations

Solution Bundles	Product/Operation Characteristic
“Work cells”	Simple, quick, standardized processes requiring low to moderate skills
“Expert Choreography”	Complex, lengthy, custom processes requiring advanced skills and heavy coordination
“Segregated Variability”	Wide range in volume of work, mix of tasks, and range of required skills
“Relationship Service Cells”	Clients expecting responsive service across many areas

Measurable objectives are a crucial component to success in a Lean Management effort

	From ...	To ...	
Process A	Customer sat	50-60	>70
	SLA %	70% (ex-NIGO)	>95% (on all)
	% NIGO ¹	8% (24%)	<5% (<15%)
	Productivity (Tx/ FTE/month)	~290	>400
	Highly engaged employees	38%	80%
Process B	Response rate	~35 -45%	50 – 60%
	End-to-end cycle time	~55 - 70 days	<30 days
	% NIGO ¹	20-25%	<10%

¹ Not in good order; % of volume (% of workload)

Pilots are used to design and test new solutions ... and to build leadership conviction about the opportunity

Diagnostic <i>4 weeks</i>	Set-up <i>2 weeks</i>	Pilot design and execution <i>10 weeks</i>			Rollout <i>TBD</i>
<ul style="list-style-type: none"> ▪ Current state assessment and opportunity identification ▪ Rough size and prioritize pilot initiatives 	<p>Select and prepare for pilot</p> <ul style="list-style-type: none"> ▪ Design first pass pilot tools ▪ Develop change story ▪ Prepare management team 	<p>Pilot detailed design (end state)</p> <p>Mindsets and behaviors</p> <ul style="list-style-type: none"> ▪ Communicate overall change story ▪ Launch initiatives to improve teaming, recognition ▪ Create feedback loops to overcome silos 	<p>Pilot refinement</p>	<p>Run pilot in steady state</p>	<p>Rollout to remainder of area in scope</p>
<p>Capability building (frontline managers and Lean change agents)</p>					
<ul style="list-style-type: none"> ▪ Conduct Lean Boot Camp for Change Agents ▪ Conduct awareness session for leadership team 		<ul style="list-style-type: none"> ▪ Launch awareness and training sessions for managers ▪ Conduct weekly training for lean team 			<p>Begin wave 2 diagnostic</p>

Typical first step is to choose pilot locations for demonstration events

Criteria for selecting effective pilot

Leadership buy-in

- Leadership of the area feels need for multi-dimensional performance gains
 - Relevant to other business leaders who will try Lean if pilot is successful
-

Visible test case

- Highly visible customer value stream – opportunity to build excitement about solving a customer problem
 - Significant waste due to handoffs, wait times, errors, and / or rework
 - High likelihood of success – critical to demonstrate impact to build momentum
-

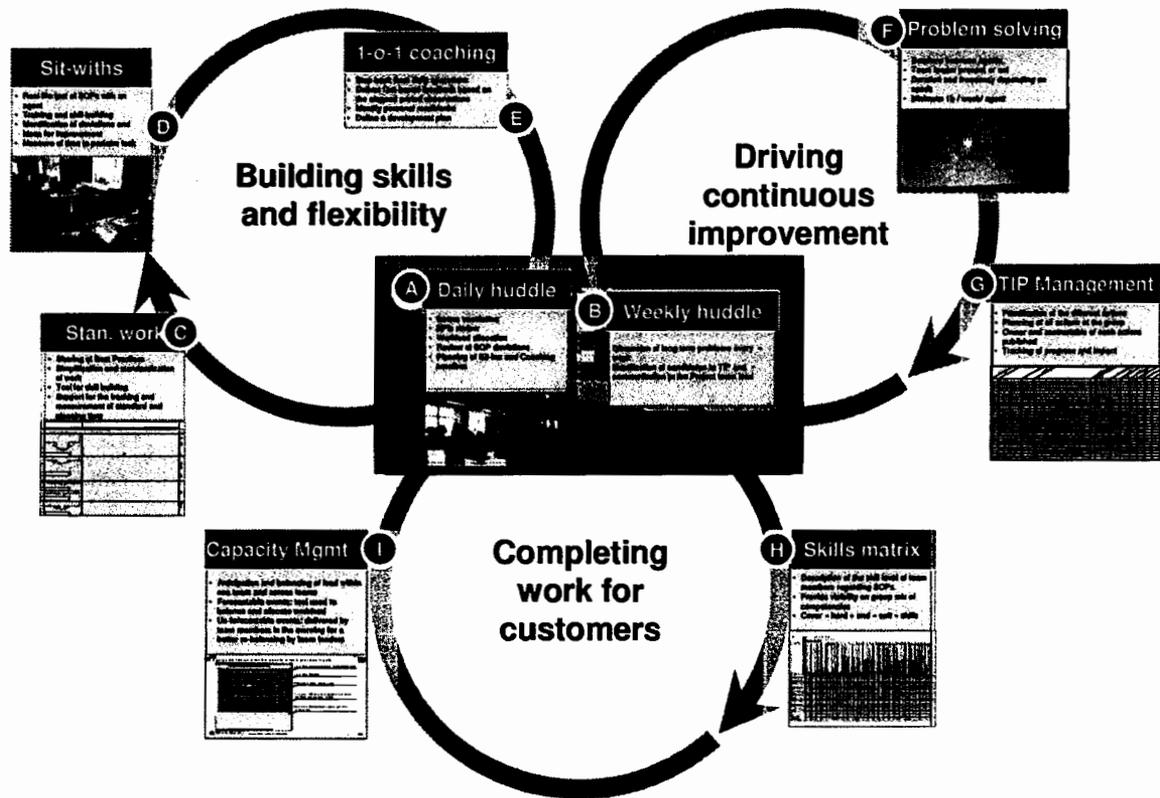
Builds change capability

- Builds line management capability
 - Builds initial team to accelerate adoption
 - Establishes a model area for training others
-

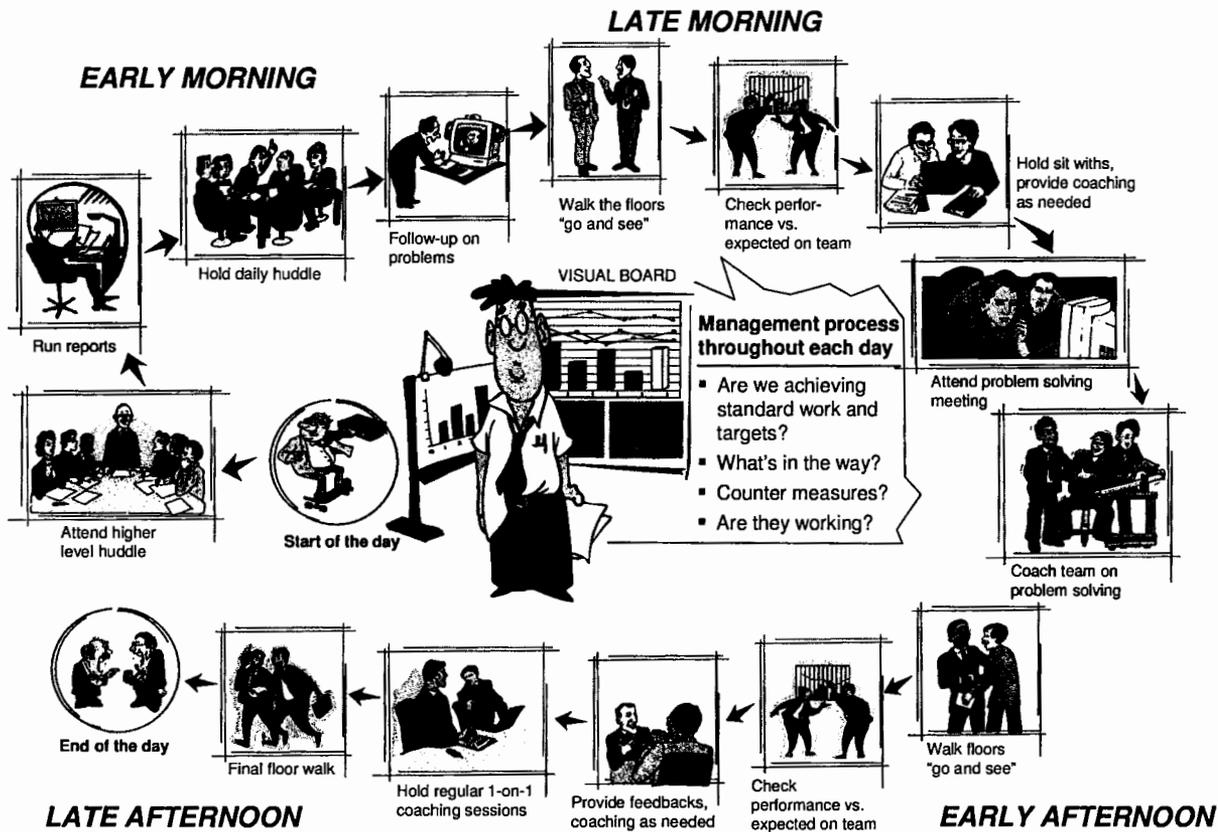
Codifies approach

- Experience used to tailor approach to [client] culture (language/specifics)
- Defines roll-out duration, pace, and scope
- Confirm resource requirements

Performance Management: Lean mechanisms are synchronized to embed and sustain new ways of working and managing



These tools and systems are more than theory – they represent significant changes in how managers and employees interact with each other



Organization and skills: Lean Management builds leadership conviction and capabilities to sustain new ways of working

6 P's of lean leadership are instilled throughout the organization

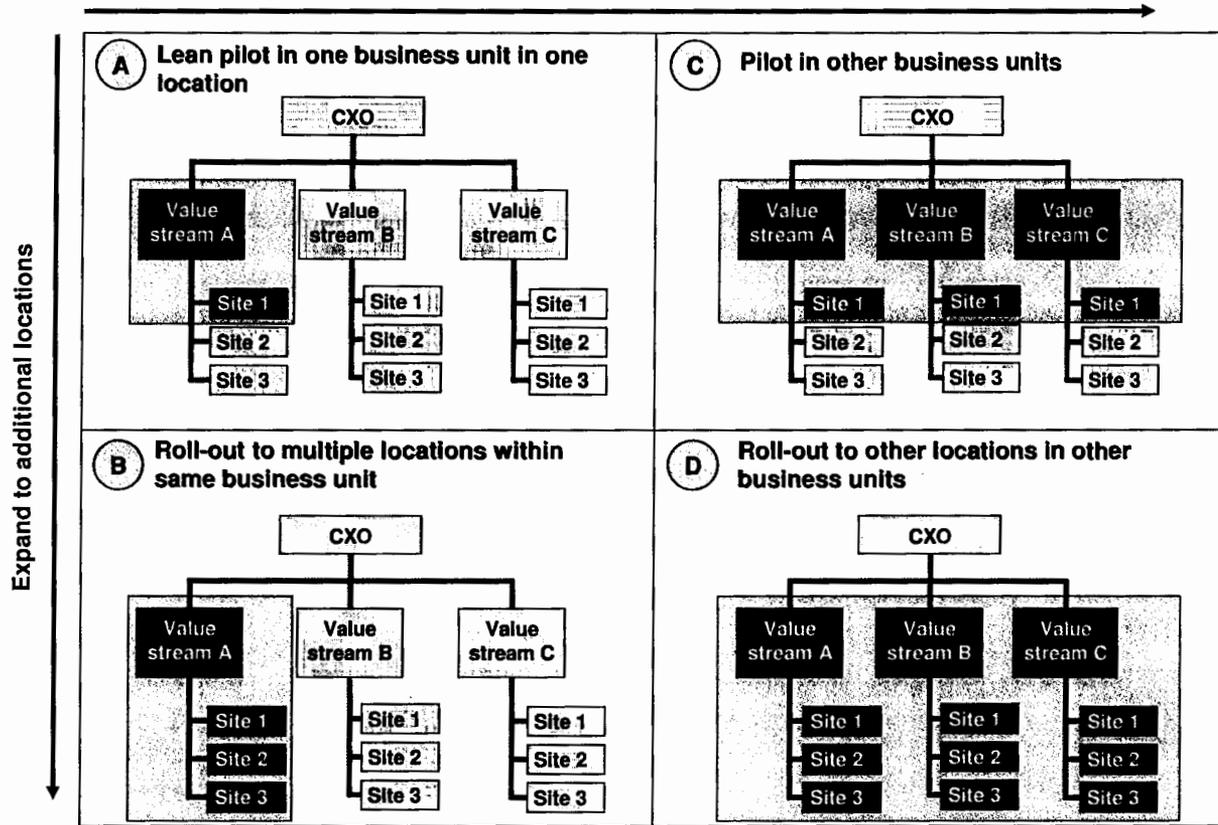
Purpose		<p>"Engage the hearts of your people"</p> <ul style="list-style-type: none"> Engage hearts through a compelling story about your long-term vision and goals Demonstrate clearly "what's in it for me?" Create a clear, tangible contribution for every job to the overall long term goals
Process		<p>"Be obsessed with standards"</p> <ul style="list-style-type: none"> Focus on the customer, but take an end-to-end perspective Maintain strict operating standards, enabling detection of every deviation Relentlessly eliminate waste and establish process flow
Performance		<p>"Be clear about your expectations"</p> <ul style="list-style-type: none"> Set clear targets based on business requirements and continuous improvement Track performance transparently, visualizing it from the work floor to the top team Hold people accountable through meaningful and demanding performance dialogues
Problem solving		<p>"Go and see for yourself"</p> <ul style="list-style-type: none"> Go and see problems on the work floor, collecting data first hand Lead structured, fact based, root cause problem solving by asking (not telling) Push for creative, simple, low-cost solutions
Partnering		<p>"One team, one goal, one standard"</p> <ul style="list-style-type: none"> "Steal ideas" to copy best practices across teams and locations Align support functions with the customer-focused end-to-end process
People		<p>"Respect and build your teams"</p> <ul style="list-style-type: none"> Ensure decisions are taken close to the frontline Develop people through building capabilities, coaching, and feedback Encourage, acknowledge, and reward improvement ideas and results

Mindsets and behaviors: Lean often requires shifting culture at all levels

	From ...	To ...
Executives	<ul style="list-style-type: none"> ▪ Focusing on short-term targets ▪ Setting functional targets in departments, with conflicting metrics and incentives 	<ul style="list-style-type: none"> ▪ Focusing on Year 2, 3, and beyond ▪ Aligning client/customer-oriented metrics across functions, not based on budgets
Managers	<ul style="list-style-type: none"> ▪ Focusing on last month's results ▪ Fire fighting to narrowly avoid negative customer experiences ▪ Throwing resources at problems, blaming other departments 	<ul style="list-style-type: none"> ▪ Focusing on today's performance ▪ Anticipating and solving problems (e.g., errors, missing inputs), before fires start ▪ Fixing processes at the root cause, working across departments to surface solutions
Team members	<ul style="list-style-type: none"> ▪ Lacking tools to identify issues early, at root cause ▪ Fearing blame for issues that do arise 	<ul style="list-style-type: none"> ▪ Actively and continuously seeking ways to surface and resolve issues ▪ Taking responsibility for performance and problem solving

Rollout sequence can take a number of paths in complex organizations

Expand to additional business units and/or value streams



Success depends on choices made by leadership early in the journey

	<i>Common pitfalls ...</i>	<i>Sustainability path ...</i>
Top mgmt commitment	<ul style="list-style-type: none"> ▪ Highly visible involvement in pilot that progressively fades 	<ul style="list-style-type: none"> ▪ Top-management commitment after pilot: "This will be our new way of working, everywhere" – they walk the talk
Purpose	<ul style="list-style-type: none"> ▪ Pure cost-cutting program or "1% black-belt syndrome" with no clear business objectives 	<ul style="list-style-type: none"> ▪ Implement shared vision answering needs of customer, business, frontline, and management
Ambition level	<ul style="list-style-type: none"> ▪ No clear measurable targets ▪ Inappropriate use of consultants 	<ul style="list-style-type: none"> ▪ High ambition levels across the board ▪ Commitment to become independent from consultants as soon as ready
Management buy-in	<ul style="list-style-type: none"> ▪ Management development limited to supervisors and next level managers 	<ul style="list-style-type: none"> ▪ Proactive work on Lean Leadership at all levels up to CxO
Consistency	<ul style="list-style-type: none"> ▪ Multiple flavors across divisions and locations with weak central support 	<ul style="list-style-type: none"> ▪ Standard, comprehensive approach delivered and communicated consistently
Capability building	<ul style="list-style-type: none"> ▪ Dependence on central team or consultants to sustain impact 	<ul style="list-style-type: none"> ▪ High-caliber people on central lean team ▪ Strong investment in capability building ▪ Proactive work on HR consequences and Continuous Improvement

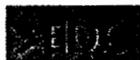
There are a variety of programs and materials to learn more about Lean Management

	Build conviction	Demonstrate impact	Scale-up	Reinforce continuous improvement
 <p>McKinsey "Go and see"</p>	<p>A</p> <ul style="list-style-type: none"> Lean Management in Action Global Lean Academy 	<ul style="list-style-type: none"> Lean in Retail Banking Forum Model factories and offices 		<ul style="list-style-type: none"> Japan Lean Study Tour Lean Master Class
 <p>McKinsey "Learning on the job programs"</p>		<p>B</p> <ul style="list-style-type: none"> Certification On-site workshops & series (e.g., lean leadership, change story) On-site Field & Forum workshops (e.g., transformation approach, performance management) 		
 <p>"Learn on your own"</p>	<p>C</p> <ul style="list-style-type: none"> Reading materials (books, articles) Operations Extranet E-learning modules 			
 <p>McKinsey proprietary solutions</p>		<p>D</p> <ul style="list-style-type: none"> Walkthrough approach Lean Management toolkit Functional lean solutions for sales, IT, support functions, etc 		

A Lean Management In Action Workshops in 2011 (North America)

Commercial credit & insurance ops:

Impressive implementation of the rapid lean solution called "expert choreography" in commercial lending and insurance. See daily huddles, their application of "flight paths" for new business, and have dinner with the CEO.



- April 15 in Ottawa
- October 26 in Ottawa

Lean Management :

Walk the floor to see Lean Management applied in a retail banking back-office environment, including call center. See daily huddles, meet with center management, and talk to the Senior Lean Leader who helped drive the transformation.



- September 27 in Providence, Rhode Island

Lean IT (FIG only):

Lean Management in application development & maintenance including daily performance briefings. The agenda includes time with Navigators (lean change agents), managers, and the head of IT/Ops.



- March 22 in Manassas, Virginia – near DC

Lean leadership and M&B showcase:

See an organization-wide lean transformation and the resulting customer-oriented culture change. Learn from the incredible lean leadership of hospital management (including the CEO).



- February 9 in Toronto
- October 19 in Toronto

Corporate & investment banking:

See lean applied in a CIB environment, specifically in securities funds services. The visit will include observing daily huddles, talking to the head of global lean, and meeting front line managers.



- July 21 in Columbus, Ohio

Lean in Travel, Transport, & Logistics:

See lean in action at Hertz! Spend time observing performance management and learning how they more efficiently manage their fleet as a result of lean.



- TBC in Chicago

Implementing Permitting Reform

"I think we've been rated 27th at this point in the speed of actually being able to construct something. Now, that's not very good. As you point out, I think there's a way for us to maintain our environmental standards, make sure that communities that are being affected by construction have a voice, but not just have layer upon layer of bureaucracy that is slowing projects up. ... I think that the recommendations you've put out are ones that we should take very seriously. ... I'm very excited about this; we're going to get on it."

President Obama, Meeting of the President's Council on Jobs and Competitiveness - 6/13/11 Durham, NC

The current system for permitting and approving job-creating projects in this country can be improved, like it has been in other countries. Our process is beset by unnecessary delays, excessive litigation, and inconsistent standards. We believe that the system can be improved, and job creation enhanced, by focusing on reforms in five major areas:

- 1) Data collection and transparency
 - a. Immediate "budget data request" through OMB
 - b. Creation of a unified online permit tracking tool
- 2) Early stakeholder engagement and time-bound reviews
 - a. Empower lead agencies to drive review of specific projects
 - b. Impose aggressive timelines that rely on the most streamlined process available
- 3) Centralized monitoring and accountability for federal agency performance
 - a. Interagency task force to develop standards, metrics, and accountability mechanisms over 12 months
 - b. Permanent White House-led council to monitor performance and resolve interagency bottlenecks
- 4) Limiting duplication among local, state, and federal agency reviews
 - a. Greater acceptance of State-level analysis by Federal agencies
 - b. Pre-emption of state/local jurisdiction when justified by the national interest
 - c. Develop multi-jurisdiction "one-stop shop" project reviews
- 5) Better management of permit-related litigation risk
 - a. Reduce the statute of limitations for challenging federal actions
 - b. Limit scope of issues subject to judicial review

Implementation of this reform agenda could take place in four stages: the initial data call, an executive order providing policy direction on stakeholder engagement and time-bound reviews, an executive order establishing interagency coordination structures, and legislation.