



## News Release

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### **CED Report Outlines Plan to Revamp the Regulatory Process for Infrastructure Investments, Minimizing Costly Delays**

**New York, NY, September 14, 2021...**The United States is on track to pass a sweeping \$1 trillion infrastructure package to transform the nation's crumbling roads, transportation hubs, water supply, and electric power grids. But, if the US is going to use its tax dollars on infrastructure improvements intended to firmly position the nation as a global leader, policymakers must create a more efficient, streamlined regulatory process to avoid prolonged, expensive delays. To that end, the Committee for Economic Development of The Conference Board (CED) has issued a new Solutions Brief report, [\*Building Infrastructure in Real Time: Avoiding Regulatory Paralysis\*](#).

As detailed in the report—the latest in a series of Solutions Briefs on Sustaining Capitalism—the US routinely lags other advanced nations in infrastructure adequacy and quality. This is caused in part by significant regulatory delays, which increase the cost and extend the timeline of critical projects to the point where they risk incompleteness. Congress has attempted to improve the process; however, these limited advances do not do enough to improve on existing challenges, such as long delays and multiple layers of judicial review.

Overhauling the current process using a “smart regulation” approach—one based on subjecting new regulations to rigorous cost-benefit analysis and reviewing existing regulation for cost effectiveness and timeliness—would result in greater efficiency, faster execution, and lower costs.

“The nation cannot afford to continually waste public and private resources due to an overburdensome regulatory system that continues to squander time and money at every step of the permitting process,” said Lori Esposito Murray, President of CED. “Funding for infrastructure is imperative, but ensuring that this investment is properly administered is of the utmost importance. At this critical juncture, policymakers must look beyond the passage of the very much needed infrastructure legislation and act with foresight to create a streamlined, expedited process for regulatory review and decision making. Failure to do so could sabotage the historic bipartisan efforts to reaffirm the US as the premier global economic power.”

In its new Solutions Brief, CED offers four changes to the current regulatory process, which would facilitate faster resolution of major infrastructure projects and strike a fair balance of competing values. They include:

- **A final decider:** A three-member expert panel, composed of representatives of each party appointed by the congressional leaderships and one member appointed by the president, would yield faster, balanced decisions. All members should be confirmed by the Senate, and members could continue across presidential administrations. The panel, possibly housed in the Judiciary, would make decisions by majority, not unanimity, to avoid stalemates.
- **A single decision process:** A “One Federal Decision” process—using a single document for the complete federal permitting process—should be made mandatory for all federal permit applications deemed to have significant environmental consequences. A single chief permitting



officer from the Council on Environmental Quality or the most-affected federal agency should be appointed to lead the process.

- **Limits on judicial review:** If decisions are made by a three-member panel to ensure a full airing of different points of view, many of the usual purposes of judicial appeal would become moot. Therefore, it would be reasonable to restrict the scope of judicial challenges by restricting grounds for suit to failure to consider or disclose material impacts of the project or practical alternatives, or violation of substantial law; require that a party participate materially in the public review and public comment process to have standing to sue; and limit the time to sue to two years (or shorter), as recommended but not required in the bipartisan infrastructure bill. Adjudication should consider the benefits as well as the costs of the project in question.
- **Limits on time:** All parties, including federal agencies and state and local governments, should be required to provide their documentation within a fixed period consistent with the issuance of a final permitting decision within two years. The panel should be free to proceed with its decision as of that submission deadline. A statute should specify that environmental impact statements of 150 pages would be the longest allowed, with a 300-page maximum for the most complex projects. This is currently specified in regulation, but to limited effect.

The new Solutions Brief, ***Building Infrastructure in Real Time: Avoiding Regulatory Paralysis***, can be accessed [here](#).

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#### **About CED**

The Committee for Economic Development of The Conference Board (CED) is the nonprofit, nonpartisan, business-led public policy center that delivers well-researched analysis and reasoned solutions in the nation's interest. CED Trustees are chief executive officers and key executives of leading US companies who bring their unique experience to address today's pressing policy issues. Collectively they represent 30+ industries, over a trillion dollars in revenue, and over 4 million employees. [www.ced.org](http://www.ced.org)

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