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May 21, 2020

I am excited to share our efforts to achieve true institutionalization of best practices designed to streamline cross-agency coordination and project delivery and reduce the overall timeframe and cost of environmental reviews or authorizations to the public in this year's Best Practices Report. This includes a new template for my office to evaluate the effectiveness of these best practices.

Permitting Council agencies will continue to deliver tangible results and efficiency across the permitting process through the best practices contained in this report. The Permitting Council will continue to share lessons learned [BP viii-2] to identify and propose new best practices, identify inefficiencies in the environmental review and authorization process, and communicate new efforts or policies for potential adoption by other agencies. My office will continue to offer project management support to agencies to deliver information about all relevant review processes [BP iv.1] to the project sponsor and all cooperating and participating agencies for incorporation into the initial timetable and coordinated project plan for a covered project.

I will work with the Permitting Council to identify best practices for immediate implementation to address the challenges identified in (1) the Permitting Council Fiscal Year 2019 Annual Report to Congress and (2) those captured in the new agency template. The Permitting Council will then consider revisions and additions to the best practices in this report to further our goal of delivering a transparent and expedient review process for agencies, stakeholders, and the public. Example areas of focus for future best practice development include:

- Leveraging Permitting Council resources for all new covered projects to host a workshop or conference call with all relevant Federal and State agencies during the early coordination stage of the review process, and during the 60-day development of a new project's timetable and plan. This supports the early development of well-informed project design proposals and helps ensure fewer iterations before an agency deems an application complete.
- Utilizing the Permitting Dashboard, the only unified Federal resource that tracks interagency dependencies in real time and their impacts to the overall permitting schedule, to identify and evaluate risks to permitting schedules and ensure all decision requirements are aligned and synchronized across the government.
- Accelerating project reviews by forecasting agency workload, identifying potential resource bottlenecks for project reviews, and addressing those resource challenges through: liaisons, funded positions, details, and expanded use of non-Federal funds to augment agency appropriations.



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Thank you for your work. Together, we can accomplish our goal of delivering thorough and timely environmental reviews to the infrastructure projects on our Dashboard.

Sincerely,

Alex Herrgott
Executive Director
Federal Permitting Improvement Steering Council



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TITLE 41, FIXING AMERICA'S SURFACE TRANSPORTATION ACT (FAST-41)

**FISCAL YEAR 2020 RECOMMENDED BEST
PRACTICES FOR ENVIRONMENTAL REVIEWS AND
AUTHORIZATIONS FOR INFRASTRUCTURE
PROJECTS**

Federal Permitting Improvement Steering Council – Office of the Executive Director



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Acknowledgements

The Federal Permitting Improvement Steering Council prepared this report as required by Title 41 of the Fixing America’s Surface Transportation Act of 2015. The Permitting Council includes the following entities:



Department of Agriculture



Department of the Army



Department of Commerce



Department of Energy



Department of Transportation



Department of Defense



Federal Energy Regulatory Commission



Department of Homeland Security



Nuclear Regulatory Commission



Department of Housing and Urban Development



Advisory Council on Historic Preservation



Office of Management and Budget



Council on Environmental Quality



Environmental Protection Agency



Department of the Interior

Applicability

Recommendations within this report do not supersede, amend, or modify the National Environmental Policy Act or other applicable laws and regulations, and do not alter the responsibility of any government official to comply with or enforce any statute. Nor does this report supersede the Office of Management and Budget and Council on Environmental Quality “Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects,” which is available at [the Permitting Dashboard](#).



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Acronyms and Abbreviations

ARC	Annual Report to Congress
BP	Best Practice
CERPO	Chief Environmental Review and Permitting Officer
C.F.R.	Code of Federal Regulations
CPP	Coordinated Project Plan
EO	Executive Order
ERA	Environmental review and authorization
FAST-41	Title 41 of the Fixing America's Surface Transportation Act
FPISC or Permitting Council	Federal Permitting Improvement Steering Council
FY	Fiscal year
NEPA	National Environmental Policy Act
OED	Office of the Executive Director
OMB	Office of Management and Budget
U.S.C.	United States Code



Fiscal Year 2020 Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects

Introduction

Title 41 of the Fixing America's Surface Transportation Act (FAST-41) (42 United States Code [U.S.C.] § 4370m), enacted in 2015, established an oversight framework to improve the timeliness, predictability, and transparency of Federal environmental permitting processes for covered infrastructure projects across a broad range of sectors.¹ FAST-41 also created the Federal Permitting Improvement Steering Council (Permitting Council or FPISC), an independent entity that oversees Federal agencies in the coordination of environmental review and authorization decisions for covered projects. The establishment of the Permitting Council was the culmination of over 20 years of work to improve the environmental review process.

Under FAST-41, the Permitting Council is required to issue best practices (BPs)² corresponding to the eight categories outlined in 42 U.S.C. § 4370m-1(c)(2)(B) for environmental reviews and authorizations common to covered projects. In addition, Permitting Council Chief Environmental Review and Permitting Officers (CERPOs) are charged with analyzing agency environmental review and authorization processes, policies, and authorities and making recommendations to the respective agency councilmember on ways to standardize, simplify, and improve the efficiency of the processes, policies, and authorities, including by implementing guidance issued under paragraph (1)(D) and other best practices. This report outlines the recommended BPs, as identified by the Permitting Council in accordance with FAST-41 for Fiscal Year (FY) 2020. FPISC recognizes that these BPs can be implemented by member agencies in the environmental review and authorization process in a variety of ways.

FAST-41 also requires the FPISC Executive Director to assess agency progress in making improvements consistent with these BPs.³ FPISC does this through its Annual Report to Congress (ARC). The FY 2020 ARC will provide a future assessment of the implementation of these BPs.⁴

In addition, Executive Order (EO) 13807⁵, signed in 2017, directs agencies to “implement the techniques and strategies the FPISC annually identifies as best practices pursuant to 42 U.S.C. 4370m-1(c)(2)(B), as appropriate.” EO 13807 also directs the Office of Management and Budget (OMB) to develop a

¹ More information is available on [the Permitting Dashboard](#).

² A *best practice* is a method, process, or activity developed through investigation and experience that is believed to be one of the most effective approaches for delivering a particular outcome when applied to a specific condition or circumstance. With proper procedures, checks, and testing, a desired outcome can be delivered with fewer problems and unforeseen complications. Best practices can also be defined as the most efficient (least amount of effort) and effective (best results) way of accomplishing a task, based on repeatable procedures that have proven themselves over time for large numbers of people and are supportive of continuous improvement.

³ See 42 U.S.C. §§ 4370m-1(c)(2)(B) and 4370m-7(a)(2)(A).

⁴ See 42 U.S.C. § 4370m-7(a).

⁵ See <https://www.federalregister.gov/documents/2017/08/24/2017-18134/establishing-discipline-and-accountability-in-the-environmental-review-and-permitting-process-for>

performance accountability system that “shall track and score agencies on the incorporation and implementation of appropriate best practices for all infrastructure projects, including the implementation of such best practices at an agency’s field level.” The OMB will not conduct a separate assessment to meet this requirement and instead will refer to the FAST-41 ARC to assess agency implementation of BPs at all levels of the agency, for all infrastructure projects.

Background

This document outlines the recommended BPs for agencies for FY 2020 by building on previous Permitting Council reports and process improvements made to date.⁶ The recommended BPs for FY 2020 remain unchanged from FY 2019. This is intended to allow agencies to apply lessons learned to further define the BPs they are implementing to meet the intent of the FAST-41 BP categories, or to continue to progress with its implementation across the agency, beyond FAST-41 projects, for all infrastructure projects, per EO 13807.

Along with the BPs, this FY 2020 Best Practices Report identifies the intent and intended outcomes behind the development of each BP. Through continuous evaluation of the use and impact of these BPs, as well as BPs issued by the Permitting Council in earlier years (FY 2017-2018), the Permitting Council Office of the Executive Director (OED) can help its partners achieve the intended benefits and goals of the FAST-41 program, including transparency, accountability, efficiency, and predictability.

Discussion of BP and ARC Approach

Each year FPISC OED publishes the ARC for FAST-41. By statute, this report should include an assessment of each agency’s progress in implementing the FAST-41 BPs.

In FY 2019, the recommended BPs focused on early coordination, creating joint processes or programmatic approaches, and sharing lessons learned. OED maintained those focus areas for the 2020 BPs. At the conclusion of FY 2020, FPISC member agencies will be required to report on their BP implementation. FPISC OED will review, assess, and compile this information into the FY 2020 ARC.

OED’s goal in setting the BPs is to balance the resources expended by agencies to provide information on BP implementation to OED with OED’s need to provide an accurate assessment of agencies’ progress in implementing BPs. In the FY 2017 and 2018, during the initial FAST-41 implementation, FPISC focused on a compliance-based, quantitative assessment approach to agency BP implementation. The submission of this information required significant time and resources from agencies.

In FY 2019, in order to transition to a more pragmatic and informative measure of agencies’ actual results, OED directed each Council member to provide an assessment of the agency’s actions that met the intent of all applicable BPs.

⁶ Prior Best Practices Reports can be found at <https://www.permits.performance.gov/tools/fy-2018-recommended-best-practices-report>.



For FY 2020, OED determined that a qualitative, performance-based approach towards assessing BP implementation would better focus resources on executing activities that improve project permitting performance and timelines.

To ensure consistency in reporting for the FY 2020 ARC, the Permitting Council recommends that each agency discuss how they have addressed the general intent of each statutory category identified under 42 U.S.C. § 4370m-1(c)(2)(B). When reporting, agencies may choose to comment both on how they are utilizing each best practice as well as any unique challenges they have faced. The Permitting Council also encourages agencies to identify any innovation or on-going activity that improves the agencies' environmental permitting processes and reduces the net administrative burden. Appendix A contains additional guidance as well as the template agencies will use for their assessment.

Best Practices

FAST-41 directs the Permitting Council to issue recommendations for BPs at least once per year (42 U.S.C. § 4370m-1(c)(2)(B)). The Permitting Council OED facilitates development of the best practices in each of the following categories:

- (i) Enhancing early stakeholder engagement, including fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project;
- (ii) Ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics;
- (iii) Improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies;
- (iv) Increasing transparency;
- (v) Reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties;
- (vi) Developing and making available to applicants appropriate geographic information systems and other tools;
- (vii) Creating and distributing training materials useful to Federal, State, tribal, and local permitting officials; and
- (viii) Addressing other aspects of infrastructure permitting, as determined by the Council.

Table 1 on pages 5-9 describes the FY 2020 recommended BPs for each of the eight categories. Note: these are a continuation of the most recent set of Permitting Council issued BPs issued in FY 2019, but previous years' BPs for each of the eight categories can be found in earlier Best Practices Reports and continue to be applicable for additional agency attention and implementation (FY 2017-2018).



Table 1: Recommended Best Practices for FY 2020⁷

Category i “Enhancing early stakeholder engagement, including fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project” (42 U.S.C. § 4370m-1(c)(2)(B)(i))	
Best Practice (BP)	Intent
<p>BP i.1 The agency should establish and implement or utilize one or more approaches for proactively engaging stakeholders, before required by statute or regulation, to initiate dialogue on early identification of potential issues. The agency may, but is not required to, use past experience to develop an initial list of stakeholder contacts. Agencies should solicit involvement of other agencies in the early stakeholder engagement as appropriate and allowed by applicable laws and regulations.</p>	<p>Part of the intent of this early stakeholder engagement BP is to ensure information from stakeholders is considered early in the environmental review and authorization (ERA) process to avoid agencies having to reevaluate impacts that would delay the completion of ERA processes. This would improve the efficiency of the ERA process.</p> <p>Early engagement with stakeholders, conducted before an agency is required to do so by statute or regulation, increases the timeliness and effectiveness of early stakeholder involvement through early dialogue on potential issues and concerns with agency review of a covered project or program. Stakeholders for the purposes of this BP include anyone outside of the agency. The intent of the BP is that agencies conduct early stakeholder engagement for projects to the extent that sufficient relevant information concerning the project is available to the agency to do so.</p>
<p>BP i.2 The agency should utilize or establish pre-application/pre-official review processes to allow project sponsors/applicants the opportunity to provide/communicate project-specific information to the agency and relevant other Federal agencies, Tribes, involved State agencies, and relevant local government entities prior to initiation of official review processes (e.g., submission of application or other initiation of the ERAs).</p>	<p>An intent of the BP is, at a minimum, to reveal to agencies and to project sponsors/applicants unique circumstances or issues that could affect review planning and timelines. Thereby, implementation of this BP will increase predictability and transparency of the ERA processes because the project sponsor/applicants will have a better idea of the ERA processes required for their project before committing their resources to the process. Another intent of this BP is to enable the agency and other governmental entities with ERA processes the opportunity to provide early guidance to prospective project sponsors/applicants on the information required for applications or other initiation of ERA processes, as well as to identify in a timely manner potential complex or controversial issues or circumstances that may arise during the review process. This BP also increases the efficiency for agencies in the ERA processes because these early communications with the project sponsors/applicants can increase the probability that the agency will get the information it needs to efficiently and effectively complete its ERA processes.</p> <p>The rationale of this pre-application/pre-official review process is to provide project sponsors with the opportunity to communicate potential impacts of a proposed project that may be complex or controversial or for the project sponsor to provide preliminary information to the agencies based on experience with similar projects reviewed by those agencies. The process may also allow governmental entities the opportunity to communicate information on their review process and their own comments to the project sponsor/applicant during early stages of project development.</p>

⁷ These BPs are the same as those published in FY 2019. New BPs may developed in coordination with OED, especially those that address OED’s recommendations in the FY 2019 ARC.



Category ii “Ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics” (42 U.S.C. § 4370m-1(c)(2)(B)(ii))

Best Practice (BP)

BP ii.1 Develop and/or use ERA process templates, application forms, flow charts, and/or checklists to assist the project sponsor/applicant with providing the required information in a timely manner.

Intent

An intent of this BP is to clarify the required information for ERA processes to project sponsors/applicants, which will increase the transparency of the ERA processes. If the project sponsors/applicants use these templates, application forms, flow charts, and/or checklists appropriately, then the agencies will have an increased probability that the agency will get the information it needs to efficiently and effectively complete its ERA processes.

Agencies will help project sponsors/applicants identify the information that is needed to complete the agency’s ERA process by providing the project sponsor/prospective applicant with ERA process templates, application forms, flow charts, and/or checklists. These tools can potentially reduce administrative burden by ensuring the project sponsor/applicant is aware of the information required, thus minimizing the need for the agency to follow-up with the project sponsor/applicant for additional information. The agency will implement a process to ensure that the needed information is available to all project sponsors/applicants, which could include providing the template, application forms, flow charts, and/or checklists on an agency’s website.

Category iii “Improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies” (42 U.S.C. § 4370m-1(c)(2)(B)(iii))

Best Practice (BP)

BP iii.1 Develop or utilize mutually acceptable standards and protocols with Federally Recognized Indian Tribes for the identification and treatment of resources that might be affected by infrastructure projects.

Intent

The intent of this BP is to increase the efficiency and effectiveness of consultations with Federally Recognized Indian Tribes by the agency either having an agency tribal consultation policy or having a consultation agreement or protocol, so that agencies may better understand and fulfill their responsibilities in consultations with Federally Recognized Indian Tribes and improve their working relationship with the Federally Recognized Indian Tribes. This BP focuses on ensuring that the relevant agency staff consistently implements the agency’s tribal consultation policy, consultation agreements, and/or consultation protocols. Federal agencies would either:

- a. Examine the agency’s existing policy or establish agency tribal consultation policies to ensure that the agency’s principles for consultation with Federally Recognized Indian Tribes on natural and cultural resource identification and treatment decisions are incorporated, and that the policy ensures relevant agency staff is competent in the agency’s policy to ensure consistent application of the agency’s tribal consultation policy; ensure that the agency’s policy is consistent with Executive Order 13175, or
- b. Develop, update, or utilize a consultation agreement or protocol for one or more ERAs (or, if the agency chooses, programmatically) with one or more Federally Recognized Indian Tribes or intertribal organizations. The agency confirms that a consultation agreement or protocol was developed, updated, or utilized for one or more ERAs (or programmatically) with one or more Federally Recognized Tribes or intertribal organizations and the consultation agreement or protocol was submitted to the Advisory Council on Historic Preservation in accordance with 36 Code of Federal Regulations (C.F.R.) § 800.2(c)(2)(ii)(E).



Category iv “Increasing transparency” (42 U.S.C. § 4370m-1(c)(2)(B)(iv))

Best Practice (BP)

BP iv.1 Provide the project sponsor/applicant and all cooperating and participating agencies of a FAST-41 covered project information about the ERA processes, including all steps, by the time the initial coordinated project plan (CPP) or project management plan is completed. Provide updated schedule to the project sponsor and the other governmental entities with ERA processes when substantive changes occur. Substantive change is when any agency or the project sponsor does not conduct or complete on time a scheduled activity or milestone upon which another entity is dependent.

Intent

By providing a good faith effort to communicate all the steps needed for each ERA process and identify the interdependencies of the process steps to project sponsors/applicants, implementation of this BP will increase the transparency, predictability, and accountability of the ERA processes for a project. By identifying the interdependencies of the process steps and updating the affected parties of any substantive schedule changes, this BP will increase the efficiency of the ERA processes. When each project sponsor/applicant and governmental entities understand interrelationships between the separate steps and are informed when the schedules are changing, it allows for better resource planning. Further project-specific ERA steps could be developed during the ERA processes, such as during National Environmental Policy Act (NEPA) scoping, and may not be identified in this initial list developed under this BP.

Agencies will develop a CPP for each FAST-41 covered project and submit the CPP to FPISC OED. The lead agency for a project will provide project sponsors/applicants, at least by the date of the initial CPP delivery to FPISC OED, with information about the ERA process, including all the steps in the ERA processes for that project and the project sponsor’s responsibilities within that process. The lead agency will develop this list of steps collaboratively with cooperating and participating agencies with involvement in ERA decisions and ensure the agencies agree with the list prior to transmittal to the project sponsor/applicant. The lead agency would coordinate with cooperating and participating agencies to develop the list of all steps and identify their interdependencies in the ERA processes for the project as well as roles and responsibilities as part of the initial CPP development process. The intent of this BP is to share this list of all steps with their interdependencies in the ERA processes for the project with the project sponsor early in the ERA process based on information available from the project sponsor and information available from the coordination among the agencies. The lead agency will make a good faith effort to identify the critical path for the ERA process. For the purposes of this BP, the critical path is defined as the list of activities that must take place as scheduled or else an unrecoverable delay to the completion of the overall ERA process for the project would occur.

Category v “Reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties” (42 U.S.C. § 4370m-1(c)(2)(B)(v))

Best Practice (BP)

BP v.1 For covered projects, institute a process to address ERA staff changes to update the other involved entities on agency personnel changes and ensure continuity of project-specific knowledge such that a staff change does not result in a substantive schedule change. Substantive change is when any agency or the project sponsor does not conduct or complete on time a scheduled activity or milestone upon which another entity is dependent.

Intent

The best time to create accurate records of an ERA process activity is as the activity is occurring and not retroactively. Under this BP, agencies would record project-specific knowledge and key information developed for an ERA process in a timely manner, such that this information could be communicated in a timely manner to agency staff in the event of a change in the staff involved in the ERA process. Implementation of this BP will increase the efficiency of ERA processes because more staff time would be required to retroactively recreate accurate records versus creating the records as the activity is being conducted. Additionally, the ERA process schedule could be affected if staff involved in the ERA process do not have timely access to key information for the ERA process in the event of staff changes.

Agencies ensure project-specific knowledge including key information developed during the ERA process is recorded and maintained in a timely manner. Such documentation will ensure continued progress of ERA processes by facilitating the ability to transfer efficiently the management of the ERA process(es) to new ERA process staff in the event of foreseeable



	<p>or unanticipated personnel changes within an agency. This could allow a qualified individual to continue the ERA process when a key individual is unavailable for a duration of time that would affect the critical path of the project’s ERA processes. To ensure smooth transitions, the agency updates the project sponsor/ applicant and other affected governmental entities participating in the project review of these new agency staff.</p>
<p>BP v.2 Develop, enhance, and/or use joint processes or programmatic approaches among Federal agencies, and with State, local, and tribal governments with similar authorities. Joint processes could reduce duplicative actions (e.g., related to data collection and analysis) or include joint environmental research and studies. Per 40 C.F.R. §1506.2(b), agencies should cooperate with State and local agencies to the “fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law.”</p>	<p>Implementation of this BP will increase the efficiency of ERA processes, as joint processes or programmatic approaches established/implemented by governmental entities having similar authorities for ERA processes can avoid duplicative or conflicting work being conducted by multiple entities involved in the ERA process (e.g., project sponsor/applicant and/or governmental entities with ERA processes) or other efficiency gains.</p> <p>Through implementing this BP, agencies can reduce administrative burden and avoid conducting duplicative or conflicting actions through coordination on Federal processes among agencies and coordination of Federal processes with non-Federal government entity processes, including through the development, improvement, or use of programmatic approaches and/or joint processes. These programmatic approaches or joint processes do not necessarily have to be specific to FAST-41 projects but should be applicable to covered projects. Implementation of this BP does not preclude agencies from developing joint processes or programmatic approaches for non-FAST-41 projects or project types.</p>
<p>Category vi “Developing and making available to applicants appropriate geographic information systems and other tools” (42 U.S.C. § 4370m-1(c)(2)(B)(vi))</p>	
<p>Best Practice (BP)</p>	<p>Intent</p>
<p>BP vi.1 Make resources available to project sponsors/applicants and stakeholders (e.g., in the form of a resource library) to facilitate knowledge sharing about the agency’s ERA processes.</p>	<p>An intent of this BP is for agencies to make resources available to project sponsors/applicants and the public to increase clarity of the required information for ERA processes and the understanding of ERA processes, which will increase the transparency of the ERA processes. By having a consolidated location for information on the agency’s ERA processes (such as, but not limited to, instructions for applications or consultations, including applicant’s/project sponsor’s responsibilities; information on the agency’s decision-making criteria; and information on the types of analysis agencies conduct on project sponsor/applicant provided information), agencies provide transparency to the ERA processes for all agencies and the public, including the project sponsor/applicants. Existing agency policy and approaches on sensitive or proprietary information remain in effect for all information sharing that may be conducted in implementing this BP.</p>



Category vii “Creating and distributing training materials useful to Federal, State, tribal, and local permitting officials” (42 U.S.C. § 4370m-1(c)(2)(B)(vii))

Best Practice (BP)	Intent
<p>BP vii.1 Provide training (e.g., video and/or presentation materials) about FAST-41 implementation online or in person each year to Federal, State, and tribal governments and local permitting officials. The training should be related to implementation of FAST-41 or one or more of the Permitting Council’s BPs (e.g., early stakeholder involvement, maintenance and communication of a project-specific ERA review schedule, establishment of common data sets, or pre-application processes).</p>	<p>Under this BP, agencies would make training materials concerning FAST-41 implementation available. When governmental entities staff are trained on FAST-41 implementation, there is more transparency in the ERA processes because they better understand their roles and responsibilities in the FAST-41 process. Training on the implementation of one or more of the Permitting Council’s BPs will help the governmental entities staff better understand its role in the agency’s ERA processes and the opportunities for increased transparency, accountability, predictability, and efficiency in the ERA processes that those BPs provide. Agencies will implement this BP by providing training specifically related to implementing FAST-41 or related to implementing one or more FY 2020 BPs that improve the ERA process for infrastructure projects.</p>

Category viii “Addressing other aspects of infrastructure permitting, as determined by the Council” (42 U.S.C. § 4370m-1(c)(2)(B)(viii))

Best Practice (BP)	Intent
<p>BP viii.1 Identify measures planned or taken by the agency in the outreach section of the CPP to increase the probability of reaching stakeholders (such as, but not limited to: virtual stakeholder meetings, notification tactics, web-based comment submission, and multi-agency utilization of web-based information sources developed for the project).</p>	<p>The CPP for each FAST-41 covered project will include a section on stakeholder outreach. Implementation of this BP will involve stakeholder engagement measures that would increase the probability that agencies receive important information from stakeholders at a time that minimizes the work required to evaluate and incorporate, as appropriate, information into the ERA processes. These measures would improve the efficiency of the ERA processes. Agencies will enact multiple methods of stakeholder engagement to increase the likelihood of reaching a broad range of stakeholders. The extent of the stakeholder engagement will conform to the type of decision being considered and the applicable statutory requirements for the agency and for the covered project.</p>
<p>BP viii.2 Identify and share information on past and planned efforts to improve the ERA processes and performance metrics by agencies that have shared lessons learned during Interagency Working Group meetings and success stories during Permitting Council councilmember meetings.</p>	<p>In implementing this BP, agencies would share information to encourage process improvement for policies and procedures (including, but not limited to, performance metrics) related to the agency’s ERA processes, and sharing lessons learned and efficiencies identified by one agency facilitates other agencies to use or adapt those lessons learned to improve the efficiency, transparency, predictability, and accountability of their ERA processes. Agencies should consider the implementation of their ERA processes, past and planned efforts to improve their ERA processes, and any lessons learned. This consideration can be done on a project-level basis as part of quarterly updates to CPPs, the conclusion of the ERA process for a FAST-41 covered project, or programmatically. Lessons learned on a project-specific or programmatic basis should be shared in the Working Group meetings. Agencies should share lessons as soon as practicable to improve ERA processes. Sharing of the lessons learned would help to support U.S.C. § 4370m–1(c)(3)(C).</p>



Best Practice Evaluation

FAST-41 requires the Executive Director to assess agency progress in making improvements consistent with these BPs (see 42 U.S.C. §§ 4370m- 1(c)(2)(B) and 4370m-7(a)(2)(A)). The ARC responds to 42 U.S.C. § 4370m-7(a) and assesses the performance of the Permitting Council member agencies based on implementation of the BP categories described in 42 U.S.C. § 4370m-1(c)(2)(B). For the FY 2020 ARC, the Executive Director will utilize the agency assessments to inform its own assessment of Permitting Council progress in implementing BPs, improving transparency and efficiency in the permitting process, and completing the decision-making process in a timely manner. The Executive Director will also use data from the Permitting Dashboard to inform the assessment, including comparing current project schedules to the original project schedules, in addition to the recommended performance schedules in the FY 2020 report *Baseline Performance Schedules for Environmental Reviews and Authorizations*.⁸ See Appendix A for additional guidance and the agency assessment template.

⁸ The Baseline Performance Schedules for Environmental Reviews and Authorizations report is available at <https://cms8.permits.performance.gov/tools/recommended-performance-schedules>

Appendix A

Permitting Council Member Agency Self-Assessment

Agency Input to FPISC's Annual Report to Congress

Background

Each year the Federal Permitting Improvement Steering Council (FPISC) Office of the Executive Director (OED) publishes the Annual Report to Congress (ARC) for Title 41 of the Fixing America's Surface Transportation Act (FAST-41). By statute, this report should include an assessment of each agency's progress in implementing the FAST-41 best practices (BPs). Each agency's progress will be evaluated by its self-reporting and OED's assessment of FAST-41 projects performance. FPISC OED's FAST-41 project assessment will be based on collaboration with agencies, project sponsors, and other stakeholders throughout the year. The instructions for agencies' self-reporting are below.

For Fiscal Year (FY) 2020, the Permitting Council is restructuring how it solicits information from each agency. OED is directing each agency's Council member to provide an accurate assessment of the agency's actions that meet the intent of all applicable BPs. These BPs may include prior years' BPs, or new BPs developed in coordination with OED, especially those that address OED's recommendations in the FY 2019 ARC. This will provide information on how agencies' initiatives or actions are progressing in improving infrastructure permitting processes within and across agencies. Agencies are to organize this self-assessment into each of three headings: (1) *FPISC Best Practice Implementation*, (2) *FAST-41 Project-Specific Permitting Improvements/Outcomes*, and (3) *Permitting Process Improvements (General)*.

Agencies' submissions will therefore be assessments of their progress in implementing:

- Applicable BPs as identified in 42 U.S.C. § 4370m-1(c)(2)(B) for FAST-41 covered projects;
- All infrastructure projects (per EO 13807); and
- Project-specific examples of how these agency actions and initiatives improved decision making processes (such as robust decision-making, proposed project outcomes, reduction in delays or avoided delays, improved interagency coordination and collaboration, earlier identification/resolution of potential issues, etc.).

Agencies are also requested to submit challenges or barriers to BP implementation.

The Permitting Council OED requests that each agency submission address all of the applicable BPs using the below template and follow word count limits for potential inclusion in the ARC.

Agency Assessment Template

****Agencies are responsible for *developing Permitting Process Improvements* to be pursued over the course of the fiscal year in accordance with statutory BP categories, tracking the progress of those initiatives or**



*actions, and providing outcomes and any next steps to continue to improve infrastructure permitting within and across agencies. Agency staff responsible for completing the assessment section of the ARC for their agency are strongly encouraged to coordinate with key internal agency stakeholders (public affairs, Council member office, Congressional liaison office, CERPO) to ensure final content submitted by agencies into the ARC has been certified by the agency Council member and would be ready for use broad audiences, including, but not limited to Congressional testimony by Council member agencies. OED intends to undertake a limited role in editing the substance of agency assessments and expects the provided template language will suffice as the extent of the direction required for agencies to provide accurate and meaningful assessments of agency’s actions, impacts, and results. Therefore, OED strongly advises agencies to utilize the provided template language as much as possible to ensure the report is an accurate representation of all Council agencies.***

Instructions:

Please use the following templates to structure the agency assessment submission. Ensure each section of the template is completed thoroughly. Please adhere to a word count limit of 200 words per BP example in section 1, and a limit of 300 words per section for sections 2 and 3⁹, while thoroughly reflecting your accomplishments and challenges, and providing links or citations, as appropriate. Please note, Section 1 is for BP examples and Section 2 is for project specific examples. Ideally, agencies will have examples of BP implementation across more than one project, applied to all efforts, and additional, project specific examples. Provide as many relevant examples as possible.

1. FPISC Best Practice Implementation

While the Permitting Council does not require an implementation narrative for each BP category, the Council encourages each member agency to highlight its successes and challenges for each category. This can be in the form of identifying positive outcomes from implementation of a BP during FY 2020 or from identifying where a BP did not prevent the issue it was intended to prevent and how the agency or Permitting Council may want to consider addressing that. The specific BPs to be reported on are listed in [Table 1](#). For FY 2020, a “Unique to Agency” BP has been added for each BP category to ensure agencies can report on their experiences within the BP framework.

Please copy and paste the table below for each BP category that is being reported on.

⁹ The total word count for your submission should not exceed 600 words for sections 2 and 3: Permitting Process Improvements; and, 300 words for FAST-41 Project-Specific Permitting Improvements/Outcomes. For FPISC Best Practice Implementation, 200 words per BP example, so if an agency is providing examples of implementation of 3 BPs, the word count for that section is 600 words.



Template Language

DROP DOWN CATEGORY	DROP DOWN SPECIFIC BP	Narrative
<p><i>vii: Creating and distributing training materials useful to Federal, State, tribal, and local permitting officials</i></p>	<p><i>Unique to Agency (?)</i></p>	<p>Agency X identified [insert brief description of the purpose of BP implementation/ specific challenge or opportunity for improvement to be addressed by (proposed) BP implementation]. In FY 2020, Agency X [insert initiatives/actions taken to implement the best practice or BP category and what agency staff or other partners were involved]. This led to [identify how the agency initiatives/actions improved the timeliness, predictability, and transparency of applicable permitting processes (e.g., time and money saved by project sponsors or agencies or anecdotal observation of improvements).] Agency X is [committed to continued action/looking into incorporating lessons learned/taking the following next steps to continue progress or identify/address challenges that came up with BP implementation].</p> <p><i>Example 1: AgencyY Training</i></p> <p><i>AgencyY identified that early coordination with stakeholders could improve the efficiency of the Section Y process, but sufficient training resources were not available to consultants, applicants and agency staff. In FY 2020, AgencyY developed a handbook and free online web training targeted at consultants and applicants to develop understanding and skills needed to interact with and work with stakeholders early in the Section Y process.</i></p> <p><i>According to feedback received from attendees, the additional training opportunities and materials have helped increase early coordination with stakeholders. This is expected to result in earlier identification of potential adverse impacts so that agencies and project applicants can consider these potential impacts early in the design process, and work to avoid and minimize any potential adverse impacts as the proposed design evolves.</i></p> <p><i>AgencyY plans to solicit feedback from consultants, applicants, agency staff participants as well as stakeholders for recommendations on how these materials could be further refined or if any additional information should be included over the course of the next fiscal year.</i></p>

2. FAST-41 Project-Specific Permitting Improvements/Outcomes

Please include agency innovations, initiatives, identification of and resolution to challenges, and successes. This section should highlight examples from specific projects, including both successes and



challenges. Agencies are encouraged to report on OED recommendations from the FY 2019 ARC (See OED Assessment, Part 2).

Template Language

Project Name

Brief description of (proposed) project and Agency X role. In FY 2020, Agency X [insert initiatives/actions taken on this project]. This led to [identify how the agency initiatives/actions improved the timeliness, predictability, and transparency of applicable permitting processes (e.g., time and money saved by project sponsors or agencies or anecdotal observation of improvements).] Agency X is [committed to continued action/looking into incorporating lessons learned/taking the following next steps to continue progress or identify/address challenges that came up].

Example 1

NEXUS Gas Transmission Project and Texas Eastern Appalachian Lease Project

The Service was able to conclude formal consultation under the ESA in less than two months on NEXUS Gas Transmission LLC’s proposed pipeline in Ohio and Michigan, largely thanks to early and robust discussions between the Service and NEXUS. In this case, NEXUS initiated discussions with the Service early in the process, actively sought and implemented Service recommendations, and drafted detailed and innovative conservation measures. Coordination between the Service, NEXUS, and our partner Council agencies was smooth as a result of early consultation, voluntary avoidance of important resources, and cooperative discussion and analysis.

Example 2

Gateway West Transmission Line Project

The Gateway West project is a proposed interstate transmission line between Idaho and Wyoming, spanning two Service regions and field offices; segments 8 and 9 of the project are covered by FAST-41. The Service’s Wyoming Fish and Wildlife Office coordinates our role as a participating agency working with the project’s lead agency, the Bureau of Land Management (BLM), to provide reviews under the ESA and other statutes within BLM’s mandated timelines. Project meetings include many stakeholders, increasing transparency and allowing engaged agencies and project proponents to build consensus when considering changes to the proposed project to minimize impacts to fish and wildlife resources. The Service continues to work with BLM to facilitate the permitting processes for segments 8 and 9 of this project.

3. Permitting Process Improvements (General)

Please document activities undertaken by the agency in FY 2020 that may be outside the information captured in the two sections above. Examples include challenges addressed or looking to be addressed through actions like: new tracking systems, procedural changes, outreach efforts/information gathering, regulatory changes, and interagency discussions/working groups/agreements/collaboration through the Council and with other Council member agencies. This section provides a space to report any new and unexpected challenges with novel solutions developed by agencies. Addressing challenges that were anticipated, then addressed by existing or new BPs can be included in sections 1 and 2.



Please provide a narrative for each process improvement in a separate paragraph using the template language as the basis for the agency submission.

Template Language

AGENCY X

Brief description of Agency activity that posed a unique challenge or involved a novel solution. In FY 2020, Agency X confronted a new/unexpected challenge in XXXX [or proactively implemented a new XXXX to address the issue of XXXX. Agency X [describe solution/effort to craft a solution/new policy or procedure to address the issue.] This led to [identify how the agency initiatives/actions improved the timeliness, predictability, and transparency of applicable permitting processes (e.g., time and money saved by project sponsors or agencies or anecdotal observation of improvements).] Agency X expects to continue [or monitor] the effects of [action/policy/procedure] and to modify/improve that [action/policy/procedure] as needed. ****Alternatively**** Agency X will discontinue the [action/policy/procedure] after implementation and evaluation demonstrated the [action/policy/procedure] was ineffective in improving the timeliness, predictability and transparency of the permitting process. However, Agency X will devise new strategies to address the challenges of XXXX. The new strategies are XXXX (include if identified.)

Example 1

In its revised regulations the U.S. Fish and Wildlife Service (USFWS) provided a framework and timeline on the ‘request for concurrence and Service’s written response’ portion of the Endangered Species Act consultation process. The USFWS had previously received concerns about timeliness for the consultation process for actions that are not likely to adversely affect listed species or critical habitat, which affected the ability of other Federal agencies to proceed with their ERAs. Since a Federal agency must provide sufficient information in their request for concurrence in order to “to start the 60-day clock” on the USFWS’ written response, the clock starts upon USFWS receipt of a written request that is consistent with the information requirements. Using this milestone as the triggering milestone on the Permitting Dashboard for either a request for concurrence or formal consultation, as applicable, clarifies for the lead agency, the USFWS, and the public when the lead agency included sufficient information for the USFWS to complete the consultation. It is also a clear trigger to start the Consultation clock, if applicable. This provides both transparency and predictability with a fairly simple approach.