



FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

# Recommended Best Practices

Fiscal Year 2022

# Acknowledgements

The Federal Permitting Improvement Steering Council (Permitting Council) issues these recommended Best Practices pursuant to 42 U.S.C. § 4370m-1(c)(2)(B).

The Permitting Council is comprised of 16 members, including the Executive Director (Permitting Council Chair), the Deputy Secretary (or equivalent) from 13 Federal agencies, the Chair of the Council on Environmental Quality, and the Director of the Office of Management and Budget.



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



# Background

Title 41 of the Fixing America's Surface Transportation Act (FAST-41) of 2015 requires the Federal Permitting Improvement Steering Council (Permitting Council) to issue recommendations on best practices for improving the Federal permitting process for FAST-41 covered projects, which may include:

- (i) enhancing early stakeholder engagement, including—
  - (I) **engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archeological, and cultural resources and locations of historic and religious significance in the area of the covered project; and\***
  - (II) 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;
- (viii) **in coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans;**
- (ix) **using programmatic assessments, templates, and other tools based on the best available science and data; and**
- (x) addressing other aspects of infrastructure permitting, as determined by the Council.<sup>1</sup>

\*Bold indicates the best practice categories for Fiscal Year (FY) 2022.

When Congress enacted the Infrastructure Investment and Jobs Act (IIJA), it added sections (i)(I), (viii), and (ix) to the existing FAST-41 list of categories of best practices and removed the requirement for the Permitting Council to annually issue recommendations for best practices for each enumerated category.<sup>2</sup> IIJA also requires each participating agency and lead agency for FAST-41 covered projects to annually submit to Congress and the Director of the Office of Management

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<sup>1</sup> 42 U.S.C. § 4370m-1(c)(2)(B)

<sup>2</sup> Pub. L. No. 117-58, § 70801(b)(3)(B)(ii), 135 Stat. 429, 1289 (Nov. 15, 2021).



and Budget a report assessing agency performance in implementing these best practices recommendations.<sup>3</sup>

To allow Permitting Council agencies to focus their efforts on implementing improvements within these new categories, for fiscal year (FY) 2022, the Permitting Council is issuing recommendations for best practices exclusively in the three new IJA categories. These recommendations were developed through a collaborative and coordinated interagency process.

The Permitting Council is conducting Government-to-Government consultations with Tribes in April-May 2022 to develop recommendations for best practices for Category (i) and expects to issue those best practices in summer 2022. An amended document will be published that includes the tribal best practices. Agencies are not precluded from implementing improvements in their permitting and authorization processes in any of the FAST-41 recommended best practice categories.

## FY 22 Recommended Best Practices Background

**Category viii - To improve preliminary engagement with project sponsors in developing coordinated project plans (CPP) in coordination with the Executive Director, it is recommended that agencies:**

- Collaborate with Permitting Council agencies to share information with project sponsors to support greater understanding of Federal agency Government-to-Government engagement responsibilities as they relate to environmental review and authorization processes and impacts to CPPs, including the permitting timetable.
- Provide information to project sponsors regarding best practices for identifying, communicating with, and engaging with Tribes as a complement to Federal agency consultation, and identify opportunities to collaborate with Tribes to enhance Tribes' access to infrastructure projects, by leveraging existing resources such as the Advisory Council on Historic Preservation's [\*Early Coordination with Indian Tribes in Pre-Application Processes Handbook\*](#).
- Coordinate with the project sponsor as early as practicable to obtain input on project sponsor milestones that will be used to inform the development of the permitting timetable.
- Explain how the project sponsor can provide input to agencies as they develop the permitting timetable and how project sponsors' responsibilities in the permitting process can impact agencies' ability to meet dates in the permitting timetable, such as a project sponsor's timely submission of complete applications.

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<sup>3</sup> 42 U.S.C. § 4370m-7(a)(3).



- Develop, update, and share guidance or practice tips for project sponsors to explain authorization application requirements.
- Circulate the draft permitting timetable with the project sponsor concurrent with review by cooperating and participating agencies.
- Hold regular meetings, to the extent practicable, between the lead, participating, and cooperating agencies and the project sponsor to enhance communication and build trust.

**Category ix - To use programmatic assessments, templates, and other tools based on the best available science and data, it is recommended that agencies:**

- Work with cooperating agencies, including State, local, and Tribal governments, and other Federal agencies, as necessary, to gather and implement the best available science to inform decision making in the environmental analysis for a project.
- Document best available science used in analysis, where appropriate.
- Utilize existing studies, programmatic assessments, environmental analyses, templates, and/or tools for project-specific analysis to reduce possible duplication of effort and time, consistent with law.
- Implement a process for regular review and updating of existing resources to avoid the use and dissemination of out-of-date information.
- Use or establish cross-agency channels to communicate about new and existing permitting resources.
- Use lesson-learned from completed environmental reviews and authorizations, as applicable, to develop sector-specific regional programmatic approaches where multiple FAST-41 covered projects are anticipated in a region.

