

Appendix A FY 2019 ARC AGENCY SUBMISSIONS

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Hon. Aimee K. Jorjani
Chairman

Leonard A. Forsman
Vice Chairman

John M. Fowler
Executive Director



Preserving America's Heritage

October 16, 2019

Mr. Alexander Herrgott
Executive Director
Federal Permitting Improvement Steering Council
1800 F St. NW
Washington, DC 20405

Ref: *Input for FAST-41 Annual Report to Congress for Fiscal Year 2019*

Dear Mr. Herrgott:

Thank you for the opportunity to provide input for the Federal Permitting Improvement Steering Council's (Permitting Council's) *Annual Report to Congress for Fiscal Year 2019* on FAST-41 implementation.

The ACHP approaches its responsibilities as a member of the Permitting Council from a role focused on review process oversight and technical assistance. Though this involvement ranges beyond the metrics of this report, we are pleased to highlight recent accomplishments in the development of programmatic approaches for the review of infrastructure projects under Section 106 of the National Historic Preservation Act (NHPA) and new training resources focused on early coordination with Indian tribes. We have chosen to respond to these two best practices, v-2 and vii-1, based on the advice of Permitting Council staff and the emphasis of our work with infrastructure project planning during FY19.

We look forward to working with you to build on these accomplishments and integrate permitting best practices into our work with federal agency and external partners.

Sincerely,

John M. Fowler
Executive Director

ACHP FAST-41 Annual Report to Congress Input, Fiscal Year 2019

Best Practice v-2, Alternative Approach

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, to reduce duplicative actions (e.g., related to data collection and analysis).

Joint processes could 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.’”¹

Describe why the alternative approach is needed and how the approach meets the intent of the BP(s). What are the unique attributes of your alternative approach that is not in the FY 2019 BPAT?

The ACHP routinely facilitates the development of new programmatic approaches to historic properties identification, effects assessment, and adverse effects resolution through tools available in the Section 106 regulations promulgated by the ACHP, “Protection of Historic Properties,” (36 CFR Part 800), specifically in 36 CFR § 800.14. These regulatory tools can be used to reduce or avoid duplicative Section 106 reviews for infrastructure sector projects, as in the case of program comments for surface transportation and broadband infrastructure such as those for [Positive Train Control \(2014\)](#), [Wireless Communication Facilities \(2015\)](#), and [Communications Projects on Federal Lands and Property \(2017\)](#).

However, Section 106 program alternatives encompass a wide range of process efficiencies beyond the elimination of duplicative federal agency effort in assessing and resolving effects to historic properties. They are an important tool that can be used to bring about other efficiencies, including aligning Section 106 review methods with specific federal program or application procedures, reducing or eliminating the review requirement for undertakings unlikely to affect historic properties, or allowing applicants for federal permits, licenses, grants, or other types of assistance to assume greater responsibility within the review process. These outcomes support the intent of BP v-2, which includes “increas[ing] the efficiency of ERA processes . . . through coordination on Federal processes among Agencies and coordination of Federal processes with non-Federal government entity processes.”² As an example, a nationwide programmatic agreement (NPA) that better sequences Section 106 review with USDA Rural Development grant application procedures, executed in July 2018, was used for the Section 106 review of 80 projects in FY 2018, according to USDA’s annual report on the NPA. The report noted, “The NPA has been essential in helping RD improve the economy and quality of life in rural America” by helping

¹ FY19 BPAT, p. 21.

² *Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects for Fiscal Year 2019*. Washington, DC: Federal Permitting Improvement Steering Council, March 2019, 5.

the agency obligate funds in a timely manner within applicant limitations and while ensuring Section 106 reviews are completed.³

While the ACHP's regulations include procedures for formalizing five types of Section 106 program alternatives, the program alternatives most often used in relationship to infrastructure sectors included in Title 41 of the Fixing America's Surface Transportation (FAST) Act are typically developed in response to the initiative or formal request of a federal agency. The alternative approach to meeting BP v-2 described here reflects the ACHP's role as a provider of technical assistance and advice to federal agencies with Section 106 review responsibilities about how programmatic approaches can make their Section 106 review efforts more targeted, effective, and efficient, and can improve coordination with non-federal parties involved in Section 106 reviews such as State and Tribal Historic Preservation Officers, Indian tribes and Native Hawaiian organizations, and local governments. The ACHP does not have a permitting or approval role and therefore is not able to eliminate duplicative efforts of its own because the agency does not carry out a review to render a decision.

Description of alternative approach and actions taken in FY 2019 which meet the intent of the BP(s)

The ACHP's procedures for developing new programmatic approaches are specified in regulation at 36 CFR § 800.14 (a) through (e). Further guidance on the process to create [alternate procedures](#), [standard treatments](#), [prototype Programmatic Agreements](#), and [program comments](#) is available on the ACHP's website. Programmatic agreements (PAs), which can be used for complex, large-scale projects as well as on statewide, regional, or national program bases, are addressed in the ACHP's [Guidance on Agreement Documents](#). ACHP staff who work with federal agencies in the Section 106 review process monitor patterns and trends in agency Section 106 compliance to identify new opportunities for programmatic approaches that could improve the agency's historic preservation program and implement efficiencies. This is a key responsibility for ACHP staff assigned to each agency. The ACHP also provides information and training on the use of program alternatives, including through a webinar dedicated to this topic, to federal agency staff so they may assess the utility of such approaches to their agencies' missions and programs.

Once issued or executed, programmatic approaches such as PAs or program comments are implemented by federal agencies with Section 106 review responsibilities to increase the efficiency of their compliance effort. It is up to these agencies to ensure applicable programmatic approaches are used.

Reference Links

The list of nationwide program alternatives issued or executed by the ACHP is available on www.achp.gov/program_alternatives.

³ USDA Rural Utilities Service, letter to Advisory Council on Historic Preservation, May 17, 2019.

Description of alternative approach and actions taken in FY 2019 which meet the intent of the BP(s)

In FY 2019, the ACHP emphasized two elements of its approach to program alternative development for infrastructure projects. First, drawing on lessons learned from the development of two program comments in FY 2018 and early FY 2019, including feedback from ACHP Federal Agency Programs Committee members, staff developed an additional internal checklist to specify coordination steps in soliciting ACHP member feedback during the development of program comments, which require an approval vote by the ACHP membership for adoption.

Second, the ACHP staff, under the direction of the agency's CERPO, assessed its information and training resources to better guide federal agencies in determining which Section 106 program alternatives offer efficiencies relevant to their infrastructure undertakings. Results of this effort included increased and revised content in classroom training courses. A project to transition a live webinar describing program alternatives and how they are developed to an online format was initiated this FY, and more information about programmatic approaches is being added to the ACHP's public website.

With respect to the development of new programmatic approaches for covered projects, in FY 2019 the ACHP staff participated in the development of Section 106 PAs to phase historic properties identification or effects assessment and/or resolve adverse effects to historic properties for the following FAST-41 covered projects: Ten West Link (BLM), Cardinal to Hickory Creek transmission line (RUS), and the Mid-Barataria Sediment Diversion Project (USACE), each of which will involve multiple state and federal agencies.

Agency's expected or observed benefits to the ERA process from implementing the agency's proposed alternative approach to meet the intent of the FY 2019 BP(s).

There is currently unprecedented interest in the development of programmatic approaches to Section 106 review. Six nationwide program alternatives are currently in development. These include four program comments for telecommunications, federal property disposal, water resources management, and Army housing, respectively. Two nationwide programmatic agreements, for land management planning on National Forests and for Naval shipyard modernization at multiple sites, are also under development with broad stakeholder coordination occurring now. This activity evidences the increasing awareness among federal agency environmental and planning leaders about how programmatic approaches may benefit their Section 106 compliance efforts.

What is your agency's feedback mechanism to ensure your alternative approach continually improves the ERA process? What (if any) future improvements to the alternative approach were identified and/or implemented in FY 2019?

The Federal Agency Programs Committee of the ACHP membership, including federal agency members as well as the National Conference of State Historic Preservation Officers, the National Association of Tribal Historic Preservation Officers, the National Trust for Historic Preservation, and tribal, public, and expert representatives, is regularly updated about efforts to develop nationwide program alternatives. The committee's comments and questions are addressed through reports and development of internal

protocols and training and technical assistance efforts on an ongoing basis. The committee provides a key venue for sharing advice on the potential efficiencies of Section 106 program alternatives with a number of federal agencies and stakeholders. Training content is regularly updated in response to student evaluations. New content about program alternatives will be refreshed in FY 2020 in response to student input during this training season, which concludes in November 2019.

FY19 ARC Stage Assessment Indicator Questions: BP vii-1

BP vii-1: “Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials⁴. The training materials 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, pre-application).”⁵

1. In FY19, did your agency have an established or existing training regarding either implementation of the FAST-41 program or of one or more of the Permitting Council’s FY19 BPs for Federal, State, and tribal governments and local permitting officials?⁶

In FY19, the Advisory Council on Historic Preservation (ACHP) completed and began offering a new online training course on “Early Coordination with Indian Tribes for Infrastructure Projects.”

In November 2017, the ACHP initiated the development of an online on-demand (eLearning) training course to educate Section 106 stakeholders in the context for and benefits of federal agencies and project sponsors coordinating with Indian tribes prior to applications for permits, licenses, funding, or other federal approvals. The course was designed to address early stakeholder involvement and pre-application, two of the Permitting Council’s BPs. On July 15, 2019, the ACHP announced to our stakeholders and Section 106 contacts the availability of the eLearning course, “Early Coordination with Indian Tribes for Infrastructure Projects.”

Concurrent with the development of the training course, the ACHP has been developing the handbook, *Early Coordination with Indian Tribes during Pre-Application Processes*. As of September 2019, the handbook is being prepared for final printing, publication, and posting on the ACHP’s website.

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing training as described in Question #1?

- a. If yes, please provide some details below about where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

⁴ Per the FY19 BPAT (p. 28), “Agencies will implement this BP by providing training specifically related to implementing FAST-41 or providing training specifically related to implementing one or more FY 2019 BPs that improve the ERA process for infrastructure projects.”

⁵ FY19 BPAT, p. 28.

⁶ The BP’s intent is that training materials are made available to Federal, State, and tribal governments and local permitting officials, include the agency informing these groups that the training materials exist and where they are available. Each agency determines the appropriate audience of its training.

3. **(Skip if response to Question #1 is no)** Please describe how your agency determined the appropriate learning objectives and intended audiences for up to two training(s) described in Question #1⁷.

FY19 Training #1:

The need for training on early coordination with Indian tribes in the Section 106 process was identified through the ACHP response to the Departments of the Interior and Justice and the Army Corps of Engineers (Corps) series of meetings and a listening session in 2016 to discuss with Indian tribes their input in federal infrastructure decisions in response to the widespread concerns regarding the Dakota Access Pipeline. In recognition that many of the issues raised during the sessions and submitted in written comments are about, or related to, the Section 106 process, the ACHP offered its own report, *Improving Tribal Consultation in Infrastructure Projects*. The ACHP report was a companion to the interagency report, *Improving Tribal Consultation and Tribal Coordination in Federal Infrastructure Decisions*, and provided recommendations for improving tribal consultation in the Section 106 review process for federal infrastructure decisions. One ACHP response in the report noted that federal agencies should encourage proactive planning by applicants that includes coordination with and information gathering from Indian tribes, an approach supported by the new eLearning course.

The eLearning course develops understanding and skills for federal cultural resources, environmental review, and program/project management staff to collaborate, interact, and work with Indian tribes early in the Section 106 process. It also prepares consultants and applicants seeking federal licenses, permits, grants, and other approvals to work with Indian tribes as they plan and develop pre-application information, timelines, and strategies for their projects.

The course includes 12 lessons under four major headings: Federal-Tribal Relationships and Section 106, Federal Agencies: Getting Started, Applicants and Contractors: Getting Started, and Considerations for Early Coordination. A typical user would need about 90 minutes to complete the course. However, interested users may expand their understanding by taking additional time to follow all of the links to resources and to read detailed case studies provided. The ACHP produced the course using the latest eLearning software (Articulate360 Rise) and have included rich multi-media, interactive questions, and links to more information and available tools.

FY19 Training #2:

4. **(Skip if response to Question #1 is no)** In FY19, did your agency hold one or more⁸ live trainings or make available online trainings as described in Question #1?⁹

⁷ An agency that conducts live training would only need to provide the same live training program multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the intended audience and learning objectives of up to two discrete times/locations that the live training was conducted.

⁸ Providing information for two trainings may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁹ OED expects agencies to inform the intended training audience of the available training as part of "making training materials" available.

- a. *(Skip if your agency chose to implement BP using online training)*. If yes, please describe how each training¹⁰ was made available to the intended audience. Also, provide a record on MAX.gov of the execution of the live training.

FY19 Live Training #1:

FY19 Live Training #2:

- b. *(Skip if your agency chose to implement BP using live training)*. If yes, please describe how each training was made available to the intended audience. Also, provide a functional link to the online training below.

FY19 Online Training #1:

The course is available on the ACHP's [eLearning portal](#), and no registration fee is required. The ACHP informed all Federal Preservation Officers about the new course in July 2019 and has shared information about the course with stakeholders and encouraged distribution in a variety of ways, including at ACHP business meetings, conferences such as the INGAA FERC 201 Workshop, and meetings of FPISC's Infrastructure Working Group.

FY19 Online Training #2:

- 5. *(Skip if response to Question #1 is no)* Was the implementation of the training described in Question #1 evaluated?¹¹

Yes, the implementation of the online training course has been evaluated in terms of participation by various target audiences as an initial step.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

In its first three months of availability (July - September 2019), 169 individuals have completed the eLearning course. Registration information indicates in what sector participants work.

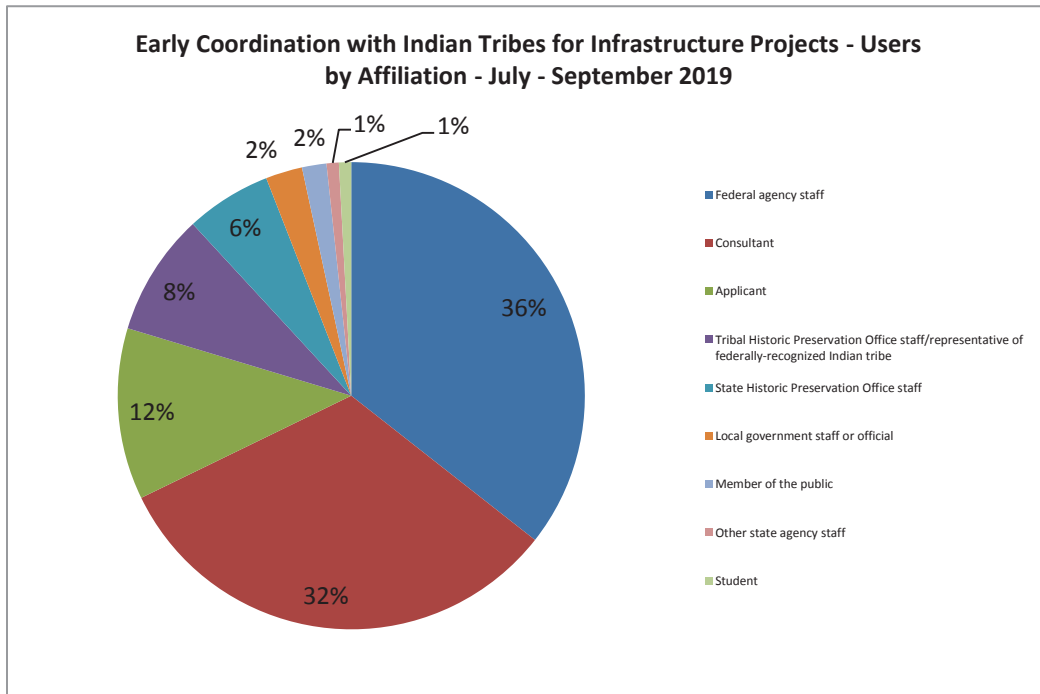
¹⁰ An agency that conducts live training would only need to provide the same training multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the two times/locations that the live training was conducted.

¹¹ This evaluation could be internal or external (not including evaluation by OED).

After each user completes the course, the ACHP eLearning portal invites the user to complete a course evaluation. To date, no users have elected to do this, so we currently have no direct feedback from users from which to consider continuous improvement. ACHP is considering requiring the course evaluation in order to obtain a course completion certificate.

b. If yes, what were your agency's findings, and were potential improvements identified?

Initial participation information indicates the course is reaching the target audience: especially, federal agency staff, consultants, applicants, and Tribal Historic Preservation Office staff/representatives of federally-recognized Indian tribes. At this time, no potential improvements have been identified given the short period in which the course has been available.



c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

N/A



Fotolia: SeanPavonePhoto

Lessons Learned, FY19

Infrastructure Working Group




ADVISORY COUNCIL ON HISTORIC PRESERVATION
Preserving America's Heritage

New E-learning Course

New Section 106 e-Learning Course

Early Coordination with Indian Tribes for Infrastructure Projects




A 90-minute, online, on-demand course
FREE on the [ACHP e-Learning Portal](#)
until September 30, 2019

This course will prepare consultants and applicants seeking federal licenses, permits, grants, and other approvals to work with Indian tribes as they plan and develop pre-application information for their projects. It will also develop understanding and skills for federal cultural resources, environmental review, and program/project management staff to interact and work with Indian tribes early in the Section 106 process.

MORE INFO →
<https://www.achp.gov/training/elearning>

ADVISORY COUNCIL ON HISTORIC PRESERVATION
Preserving America's Heritage



- Online, on-demand
- Addresses BP vii.1.
- Includes strategies for agencies toward meeting BP i.1.
- Take the course free until 9/30/19



Advisory Council on Historic Preservation

Promoting Historic Preservation Across the Nation

The ACHP promotes the preservation, enhancement, and sustainable use of the nation's diverse historic resources, and advises the President and Congress on national historic preservation policy.

[LEARN MORE ABOUT THE ACHP](#)

Quicklinks



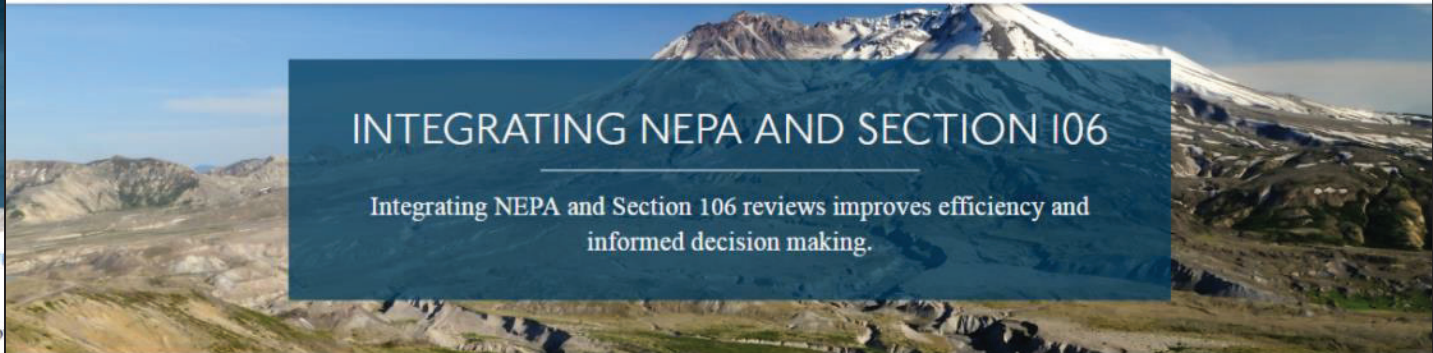
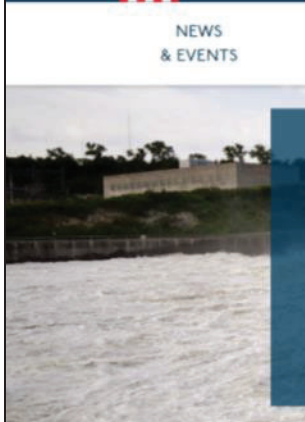
Section 106 Digital Library

[SHARE](#)

Below are a selection of Section 106 Digital Library highlights. Browse below or search for specific library entries by keyword, topic, or content type.

Search

Search Keywords**Section****Content Type****Topic**



INTEGRATING NEPA AND SECTION 106

Integrating NEPA and Section 106 reviews improves efficiency and informed decision making.

HOME > 106 TOOLKIT FOR INF

The Advisory Co and other assistar planning through

Reference National H

- The Section
- Protecting P

HOME > INTEGRATING NEPA 106

A Brief Explanation of NEPA and Section 106 Reviews

The National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA) are two separate laws which require federal agencies to “stop, look, and listen” before making decisions that impact historic properties and the human environment.

NHPA was signed into law in 1966, and Section 106 of the NHPA requires federal agencies to take into account the effect of undertakings they carry out, license, approve, or fund on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment before making decisions. Using the Section 106 process, agencies



An Introduction to Section 106

Before a review begins, the federal agency must decide if Section 106 applies.

[READ MORE >](#)

1

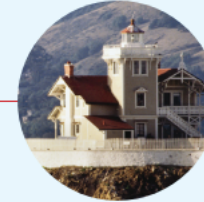


Initiating Section 106

The federal agency identifies who should be involved in consultation and plans to involve the public.

[READ MORE >](#)

2



Identifying Historic Properties

The federal agency identifies historic properties in the area where the project could have effects.

[READ MORE >](#)



INTRODUCTION

An Introduction to Section 106

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country. If a federal or federally-assisted project has the potential to affect historic properties, a Section

www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106

STEP 2

Identifying Historic Properties

The agency identifies the historic properties that could be affected.

The agency gathers information to decide if any properties in the area that may be affected by the project are listed, or are eligible for listing, in the National Register of Historic Places.

If no historic properties are present, or if those present will not be affected by the project, the review may conclude here.

DETERMINATION



Have any historic properties been identified?

YES

Yes, at least one historic property was identified.

If at least one historic property is found that could be affected by the project, the federal agency must proceed to the assessment of effects. The agency must notify all consulting parties and invite their views.

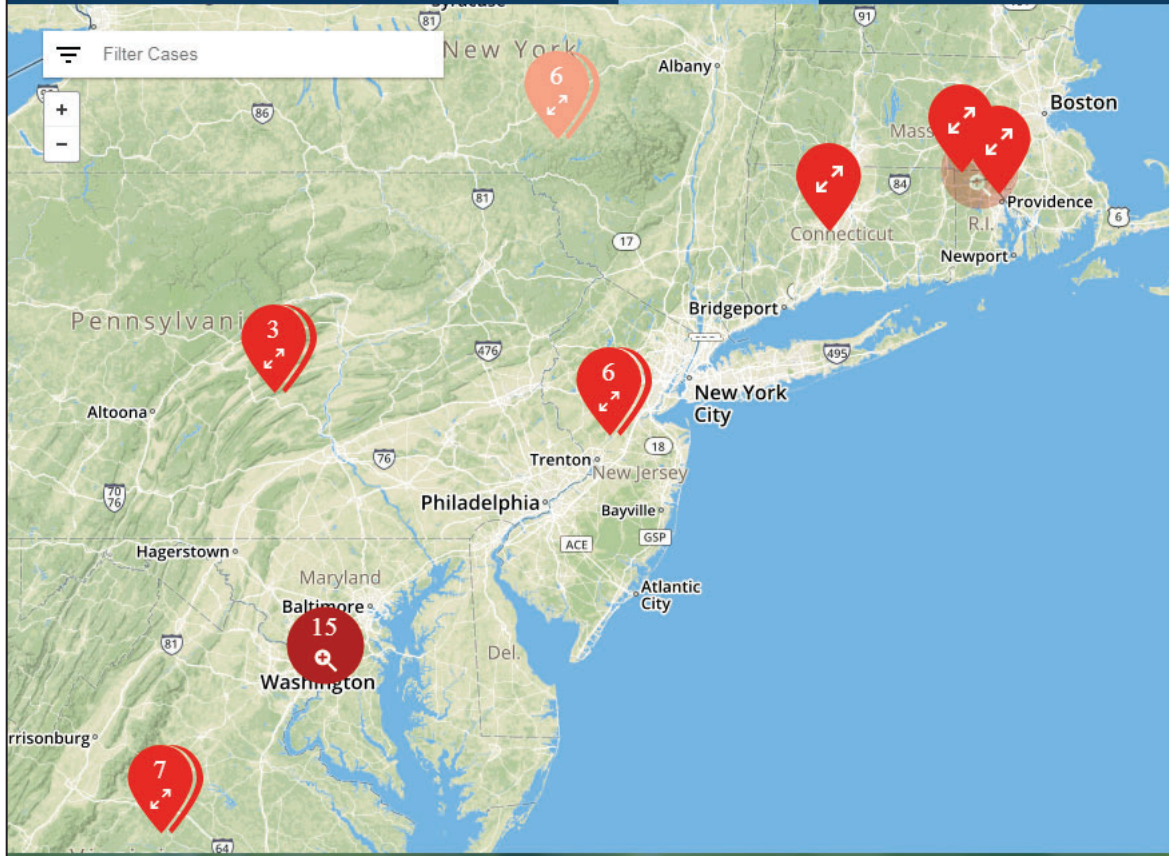
LEARN MORE ABOUT THE NEXT STEP:
ASSESSING EFFECTS



Section 106 Cases Involving ACHP

MAP

GRID



Cases in New York

01 Construction of a New Rail Tunnel Under the Hudson River (NY-NJ)

Federal Railroad Administration in cooperation with the New Jersey Transit Corporation proposes the construction of a new rail tunnel under the Hudson River, including railroad infrastructure in New Jersey and New York connecting the new rail tunnel to the existing Northeast Corridor (NEC) and rehabilitation of the existing NEC tunnel (called the North River Tunnel) beneath the Hudson River. This project is intended to preserve the current functionality of the NEC Hudson River passenger rail crossing between New Jersey and New York and strengthen the resilience of the NEC.

Agency Involved:
Federal Railroad Administration

www.achp.gov/section-106-and-Infrastructure-Projects

www.achp.gov/protecting-historic-properties/



ADVISORY COUNCIL ON HISTORIC PRESERVATION
Preserving America's Heritage



**DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108**

Mr. Alex Herrgott
Executive Director
Federal Permitting Improvement Steering Council
1800 F Street NW
Washington, DC 20006

Dear Mr. Herrgott:

The Army is pleased to share with you our agency's tremendous success complying with the FAST-41 FY19 Best Practices. The United States Army Corps of Engineers (Corps) served as either a lead or cooperating agency for multiple projects during FY19. As such, all Best Practices developed for FY19 directly apply to our actions. Included in Appendix A is a brief summary of how the Corps complied with each Best Practice.

I certify that the attached information is accurate. Please contact me or have a member of your staff contact Mr. Thomas Smith, USACE Chief Environmental Review and Permitting Officer, at (202) 761-1983, or Thomas.P.Smith@usace.army.mil, with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Ryan A. Fisher".

Ryan A. Fisher
Principal Deputy Assistant Secretary of the Army
(Civil Works)

BP i-1: The lead 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 lead agency may, but is not required to, use past experience to develop an initial list of stakeholder contacts. Lead agencies should solicit involvement of cooperating and participating agencies in the early stakeholder engagement as appropriate and allowed by applicable laws and regulations.

The USACE has executed both program-wide and project-specific initiatives to comply with this BP. On a program-wide basis, the USACE Regulatory Program has revised its performance metrics (known as Mission Success Criteria) to include public outreach because public outreach has a proven track record of increasing understanding of the Regulatory Program's evaluation process, has improved the types and quality of information submitted by applicants, enhanced public engagement and communication and coordination with federal, state, and local agencies and tribes. USACE tracks qualifying outreach events in our national database known as ORM (internal only). Qualifying outreach events include: 1) webinars provided by a district to external participants; 2) district presentations made to external participants; 3) serving as a presenter or panel member at events hosted by professional associations, NGOs, or the private sector; 4) updates to district public webpages including templates, guidance documents, and links, 5) Public affairs-approved social media posts; and 6) mass e-mail distributions to interested parties/stakeholders/consultants providing important Regulatory Program updates and/or information separate from webpage and social media updates.

Because outreach occurs through various methods, it provides districts with necessary flexibility to identify and work with various stakeholder groups in the manner most appropriate for those specific groups. The districts' staff also include their contact information during these events, which helps further expand public understanding of how to best reach the USACE and engage in the USACE Regulatory Program's application review process. E-mail distribution lists are one of the more common ways our agency identifies and contacts interested parties, although those individuals must elect to be added to such lists.

I am proud to report that USACE conducted 717 outreach events of the types listed above in FY19 (as of 01 Sep 19), which included 453 in-person presentations. These events continue to facilitate improvement in stakeholder engagement in the USACE environmental review and authorization process.

BP i-2: The lead 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 lead 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).

USACE has a long-established practice of conducting pre-application meetings. The USACE Regulatory Program utilizes pre-application meetings, upon project sponsor request, where potential cooperating agencies, tribes, and state governments are invited so they, along with the USACE, can share with the project sponsor their various requirements, concerns, etc. See 33 CFR 325.1(b) and 33 CFR 332.4(a) for additional information.

The information the agencies provide varies and is based on the potential impacts and authorities implicated, and type of agency review required, e.g. abbreviated or standard. Information is usually conveyed verbally although checklists are available. For example, if the activity requires a Section 404 CWA permit, the USACE will explain the information requirements necessary to complete a Section 404(b)(1) Guidelines analysis and also avoidance, minimization, and compensatory mitigation requirements. If the activity could affect historic properties, the district or State Historic Preservation Officer may outline that process. Many districts' websites also contain detailed information. For example, <https://www.spl.usace.army.mil/Missions/Regulatory/Permit-Process/Permit-Requirements/>

All USACE districts have information regarding the pre-application process available on their websites. Just a few examples are available at:

<https://www.sam.usace.army.mil/Missions/Regulatory/how-do-i-apply-for-a-permit/>;
<https://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/ref/pre-app-CA-04-01-2015.pdf?ver=2019-08-15-180448-480>;
<https://www.lrl.usace.army.mil/Portals/64/docs/Regulatory/Forms/Pre-App%20Meeting%20Request.pdf?ver=2018-03-29-124547-340>.

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.

USACE HQ, divisions, and districts develop and utilize numerous ERA process templates, application forms, flowcharts, and checklists to assist applicants with providing required information in a timely manner. A wide variety of documents are available since the requirements vary based on a number of factors including types of programmatic approaches developed and utilized in a specific division or district (See BP v-2) and the location and extent of proposed impacts to aquatic resources, historic properties, endangered species, etc.

Access to these documents is available at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>. The public can navigate to the specific divisions and districts to find more regional tools. For example, Jacksonville

District has application checklist available at:

<http://w3.saj.usace.army.mil/permits/RDAvatarPRV201203/languages/eng/pdf/Checklist.pdf>. Baltimore district has a process flow chart is available at:

<https://www.nab.usace.army.mil/Portals/63/docs/Regulatory/Pubs/Regulatory%20flowchart.pdf>.

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.

USACE discussed this BP with staff at the FAST-41 Office of the Executive Director who clarified for USACE that agencies can also meet this BP by sharing with OED any established policies they may have regarding tribal consultation and any training agencies may provide those staff. Summarized below is discussion of both the policy and the trainings available.

USACE has a Tribal Consultation Policy that is consistent with E.O. 13175. It was signed by the Chief of Engineers on November 1, 2012. USACE's Tribal Consultation Policy recognizes the importance of natural and cultural resources. In paragraph d(4) the USACE policy states that all Tribes that have an interest in an activity with the potential to significantly affect "protected tribal resources" will be contacted and their comments taken into consideration. The statement "protected tribal resources" could include natural and cultural resources, recognizing that the resource can be natural and cultural at the same time. Further in the USACE Tribal Consultation Policy at paragraph f. Protection of natural and cultural resources - are specifically recognized along with the NHPA and other statutes and compliance with these statutes. USACE works toward mutual consensus with tribes (paragraph 3.b.) in our decision making process to the extent practicable and permitted by law.

USACE conducts annual training on Consulting with Tribal Nations to ensure that USACE staff is competent on our policies. The 27th Consulting with Tribal Nations Training will be conducted the week of September 16, 2019.

In FY19, USACE conducting a Tribal Nations Advanced Training and Community of Practice Meeting in June 2019. The Advanced Training and Community of Practice Meeting is designed to increase the knowledge of USACE staff that works and interacts with federally-recognized tribes. USACE conducted the 27th Consulting with Tribal Nations Training the week of September 16, 2019. The Consulting with Tribal Nations Training and the Advanced Training and Community of Practice meetings are designed to educate USACE staff on USACE Tribal Consultation Policy and how to engage and interact effectively with federally-recognized Tribes. We teach cultural sensitivities, understanding of federal Indian law, learning about removed tribes and the importance of ancestral homelands and other lands of cultural significance. USACE staff present on their projects with tribes and how they effectively work to meet a tribe's water resources needs. USACE staff learns about NHPA compliance and USACE's regulatory program.

Fundamental to both the Advance Training and the Consulting with Tribal Nations training is partnering with tribal members. Tribal members from the area near the training is invited on invitational orders to participate and provide the tribal point of view. This is critical to both trainings to hear from tribal voices on how to work more effectively.

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.

The USACE was lead federal agency for two projects added to the Dashboard in FY19: Mid-Breton and Port of Corpus Christi. The CPPs for these projects include dates of pre-application meetings that occurred prior to and during the initial development of the CPPs. The USACE has complied with all requirements to coordinate substantive changes to the project schedule, as applicable.

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.

USACE process for addressing staff changes and ensuring continuity of project-specific knowledge has previously been unwritten, albeit well-established. In order to formalize the process, USACE HQ sought feedback from districts and divisions regarding the establishment of a recommended written process to address Regulatory Program and Section 408 reviews. The recommended process was finalized on 16 August 2019. It facilitates future project transfer by outlining when a new Project Manager (PM) should be assigned, how the new and current PM should coordinate prior to transfer, what activities they should discuss/document, and how notification to all affected parties should occur. District feedback has indicated that the process will help ensure all necessary activities occur in a timely manner. As the process is utilized, districts will continue to be able to provide feedback to HQ so any necessary improvements can be incorporated.

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, to reduce duplicative actions (e.g., related to data collection and analysis). Joint processes could 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.'

The USACE routinely develops/utilizes joint processes and programmatic approaches to maximize the efficiency of its reviews and reduce regulatory burden on the public. Categories of such approaches include joint permit applications with state and local governments, Programmatic and Regional general permits, programmatic Section 7 ESA consultation, and programmatic Section 106 consultations.

USACE also works to ensure its internal operations are as efficient as possible. For example, USACE environmental reviews and authorizations include permits from the Regulatory Program in accordance with Section 10, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection Research and Sanctuaries Act as well as permissions from the Section 408 Program (Section 14 of the Rivers and Harbors Act) for modifications/alterations to Congressionally-authorized USACE Civil Works Projects.

In August 2018, the USACE Director of Civil Works issued a Director's Policy Memo outlining the directive and policy, "Strategy for Synchronization of the Regulatory and 408 Programs". The directive included instructions to districts and divisions to establish "One Door to the Corps" in order to provide the public with a single point of contact to initiate the review processes required for the proposed project. The directive also included the establishment of district Standard Operation Procedures outlining how district offices will coordinate leverage information in order to reduce duplication of effort when authorization when approval from both Regulatory and Section 408 is required. Districts draft SOPs were due March 2019. All 38 districts had draft SOPs in place at that time. Drafts will be reviewed and finalized in FY20. The policy is available at:

<https://planning.erdc.dren.mil/toolbox/library/MemosandLetters/DPM%20CW%202018-10.pdf>.

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.

USACE has numerous resources available to project sponsors/applicants, and stakeholders regarding ERA processes. National-level information for the Regulatory Program is available at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>. Section 408 information is available at: <https://www.usace.army.mil/Missions/Civil-Works/Section408/>.

USACE has a number of resources available at our Division and District websites as well. For example: <https://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Permit-Guidebook/>.

HQ, Divisions and districts work diligently to maintain their websites and ensuring they are user-friendly while still conforming to Army requirements. Several years ago, a "Regulatory/permits button" was added to the home page of each district to help the public more easily navigate to Regulatory information. Further, substantive webpage updates are now included as part of the "Outreach" mission success criteria. In FY19, seventy five

such updates occurred throughout various districts. Related, as part of "Outreach" thirteen e-mail notifications were sent to stakeholders regarding new information available on-line.

BP vii-1: Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials. The training materials 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, pre-application).

USACE HQ holds quarterly calls/webinars with USACE Divisions and Districts to discuss FAST-41 compliance. Learning objectives are determined based on needs identified, including, but not limited to, any updates to FAST-41 compliance requirements and other developments that have occurred since the last quarterly meeting. Presentations related to these calls are then posted to an internal website so staff can access them as needed.

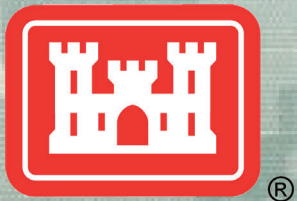
BP viii-1: Identify measures planned or taken by the Agency in the outreach section of the CPP to increase the probability of reaching the stakeholders for stakeholder engagement (such as, but not limited to: virtual stakeholder meetings, notification tactics, web-based comment submission, and multi-agency utilization of web-based information sources developed for the project).

USACE was lead federal agency for three projects on the Dashboard: Mid-Barataria (added FY18), Mid-Breton, and Port of Corpus Christi. The CPPs for these projects identify the measures planned or taken to increase stakeholder outreach. This section of the CPP will be updated as project review progresses and additional opportunities for outreach are identified.

BP viii-2: Identify and share information on past and planned efforts to improve the ERA processes and performance metrics by Agencies sharing lessons learned during Interagency Working Group meetings and success stories during Permitting Council councilmember meetings.

On 16 July 2019, USACE presented to the working group efforts to synchronize the Section 408 and Regulatory review processes.

USACE Compliance with FAST-41 Best Practice viii-2 (2019)



US Army Corps of Engineers
BUILDING STRONG®

Synchronization of Regulatory and Section 408

- Regulatory Office – Section 10/404 Permitting
- Other Corps offices - Section 408 (modification of a Corps Civil Works Project – navigation channel/harbor, levee, etc.)
- Occasionally, authorization from both offices is required
 - ▶ Challenges
 - Determining whether authorization from both is required
 - Communication with applicant about information needs
 - Communication across mission areas before/during evaluation
 - Duplicating federal environmental reviews
 - Having one agency “voice”



Synchronization of Regulatory and Section 408

- Solutions
 - ▶ Director's Policy Memo – August 2018
 - Building off One Federal Decision, Corps instituted One Corps Decision.
 - Districts developed draft SOPs for internal coordination, due/completed 30 March 19.
 - ▷ How coordination occurs, information is leveraged, identification of a “lead” mission area.
 - Currently being tested, to be finalized end of FY.
 - ▶ Updated 408 Policy that can leverage Regulatory decision
 - Permission from only Regulatory necessary in certain instances, e.g. work in Corps Navigation Channels, reducing duplication.



Synchronization of Regulatory and Section 408

- Ensuring Success
 - ▶ HQ is currently drafting process for SOP evaluation
 - ▶ SOPs will be evaluated to ensure adequately comply with directive
 - ▶ Deficiencies identified and addressed prior to finalization of SOPs
 - ▶ SOPs are “living documents”.
 - ▶ Must be a leadership priority with consistent follow-up.

- Will this BP Work for You?
 - Does your agency have multiple offices involved in any single project?
 - Is there ANY overlap in process, requirements, information needs?
 - Do the offices work together closely or in a silo?
 - Is there opportunity for efficiency/reducing duplication?



DHS Fiscal Year 2019 Annual Report to Congress Response

Applicable Questions for Assessing Agency:

BP ii-1

ERA Process/Project Type/Resource Area #1: USCG Bridge Permits. Note: This is the only Environmental Review or Authorization Process currently scored for DHS and the USCG. The AKLNG Project is the only covered project for which DHS/USCG has an ERA process.

1. Does your agency have established ERA process document(s) that tell the project sponsor what information they need to provide to the agency for the ERA process?

Response: The Department of Homeland Security's primary permitting authority resides in the U.S. Coast Guard (USCG), through their bridge permitting program. The U.S. Coast Guard provides all project sponsors/applicants with the "Bridge Permitting Application Guide" (BPAG). The BPAG assists project sponsors/applicants when applying for a USCG permit to construct a new bridge or causeway, or reconstruct or modify an existing bridge or causeway, across navigable waters of the United States. In addition, the USCG provides project sponsors/applicants with the "Coast Guard Permit Application Template." The template provides project sponsors/applicants an easy, step-by-step application using fill-in-the-blanks and check boxes. The BPAG and Application Template have been uploaded to the DHS site on MAX.gov.

2. Skip if response to Question #1 is yes.

3. How does your agency disseminate the ERA process document(s) to project sponsors?

Response: Within DHS, the USCG BPAG and Application Template are located on the Office of Bridge Programs public website: <https://www.dco.uscg.mil/Office-of-Bridge-Programs/>. USCG District Bridge Offices either provide project sponsors/applicants the URL address or provide the documents directly via email attachment.

4. What ERA process types and ERA process elements are covered by the ERA process document(s) that your agency provides to project sponsors?

Response: USCG Bridge Permits are the primary ERA in DHS. The BPAG and Application Template cover all navigational, environmental, historical, and socioeconomic review requirements for the issuance of USCG permits to construct new bridges or causeways, or modify existing bridges or causeways, proposed to cross navigable waters of the United States.

5. Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?

5a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

Response: USCG ERA process documents are evaluated continuously at the Headquarters and Departmental level, and annually through the USCG District (field) level – although,

recommendations are accepted at any point during the year. The effectiveness is also measured through the completeness and quality of Bridge Permit applications received.

5b. If yes, what were your agency's findings, and were potential improvements identified?

Response: Prior to development of the Application Template, applicants submitted lengthy narrative documents often containing extraneous information that required additional time for the applicant to prepare and for the USCG to review and ascertain whether all requirements were addressed. The Application Template is a holistic, all-inclusive form, with all application requirements, that can be filled out by the applicant and sent directly to the USCG. Since the Application Template has been provided, Bridge Permit applications submitted have been markedly more complete and accurate. Less time is devoted to back-and-forth with the applicant to obtain additional/clarifying information resulting in decreased project review times. Non-substantive improvements have been made to the Application Template allowing ease of use when entering the information. Additionally, some sections have been reworded to avoid any ambiguity.

5c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

Response: The Department, through USCG, will continue to review and reassess the BPAG and Application Template. Updates will be made to the documents as opportunities for improvement are identified.

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.

1. Does your agency have documented process(es) to address ERA staff changes and ensure continuity of project-specific knowledge and communications?

Response: No. To support DHS compliance with FAST-41, USCG has drafted a Transition Plan to ensure staff continuity for covered projects but has yet to implement it. The Transition Plan requires two USCG District personnel and one Headquarters person to have up-to-date knowledge of covered projects. The process has been successful as evidenced in FY19. After the retirement of the USCG District project officer for the AKLNG Project retired, the procedures within the Transition Plan were utilized to ensure the USCG's portion of the AKLNG Project review remained on schedule.

2. In FY19, did your agency begin or continue developing a process as described in Question #1?

Response: Yes. The Transition Plan will be implemented soon.

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, to reduce duplicative actions (e.g., related to data collection and analysis).

1. Does your agency have existing or established procedure(s)/process(es) in place for:

- “Ensuring existing joint processes/programmatic approaches to reduce duplicative actions have been utilized during the past FY, when appropriate,”
- Identifying new opportunities when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs,”
- “Creating new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists,” and “utilizing the joint processes/programmatic approaches.

Response: Yes. There are three DHS/USCG processes of note.

- In 2018, the USCG signed a Working Agreement with FHWA, USACE, USEPA, USFWS, and NOAA “To Coordinate and Improve Planning, Project Development, and the National Environmental Policy Act Review and Permitting for Major Infrastructure Projects Requiring Preparation of an Environmental Impact Statement.” The associated working group developed project milestones for Major Infrastructure Projects under One Federal Decision (EO 13807). The same milestones may be used for FAST-41 covered projects.
- When not the lead federal agency, the USCG no longer solicits environmental comments during the Public Notice process (only comments regarding navigation). This has resulted in the reduction of the overall review time for projects by the USCG. Please see the presentation “U.S. Coast Guard Lessons Learned for Major Infrastructure Projects” as described in BP viii-2. The USCG has no other duplicate actions with other Federal, State, local, or Tribal governments in regards to data collection and analysis.
- The USCG and USACE are currently working to update the MOU between the agencies. The updated MOU will better define limits of jurisdiction for each agency and avoid duplication of effort for bridge projects.

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 process.

1. Does your agency have a consolidated resource library that is publicly available and includes, but is not limited to, the items listed below to provide transparency to infrastructure ERA processes for all agencies and the public:

- a. Instructions for application processes/consultation processes,
- b. Information on the agency’s decision-making criteria for ERA processes, and Information on the types of analysis the agency conducts on project sponsor/applicant-provided information?

Response: Yes. The USCG Office of Bridge Programs maintains a public website that contains all necessary information pertaining to Bridge Permitting. The Bridge Permits tab includes a description of the Bridge Permitting process, the BPAG, Application Template, the 2015 “Red Book,” and a glossary of bridge terms. All available information is provided to ensure the transparency of the Bridge Permitting process. The link to the Office of Bridge Programs is: <https://www.dco.uscg.mil/Office-of-Bridge-Programs/>

BP vii-1

Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials. The training materials 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, pre-application).

1. In FY19, did your agency have an established or existing training regarding either implementation of the FAST-41 program or of one or more of the Permitting Council’s FY19 BPs for Federal, State, and tribal governments and local permitting officials?

Response: Yes. DHS and USCG developed training for FAST-41/Major Infrastructure Projects. In FY19, training was provided to all DHS Component environmental planning and historic preservation offices. In addition, live training was provided to six USCG District Bridge Offices. The training educated Headquarters and field personnel on FAST-41 (and EO 13807) requirements, implementation of FAST-41, use of the Permitting Dashboard, and the use of best practices to ensure project reviews remain on schedule. The USCG continues to update and improve the training based on feedback from the participants and to convey information in a simple yet accurate format. A major challenge continues to be lack of funding for travel. The training is intended for a small niche of the USCG involved in FAST-41/Major Infrastructure

Projects. As such, it is not accepted as official/sanctioned USCG training and does not qualify for travel funding.

BP viii-2

For FY19 ARC, FPISC-OED will assess if each agency's Working Group Meeting presentation in FY19 provided sufficient details of the lesson learned/problem solved and benefits of the solution so that other agencies can consider how adopting the innovation or process improvement might benefit them. To facilitate information sharing, agencies should upload any presentation materials to their BP viii-2 pages. Per the FY19 BPAT (page 30), there will be no data call/questionnaire for BP viii-2.

Response: On 6 August 2019, DHS/USCG presented "U.S. Coast Guard Lessons Learned for Major Infrastructure Projects." The presentation focused on how the USCG has redeveloped processes for public notices and plan sheets for Bridge Permit applications. The presentation was uploaded to the DHS BP viii-2 page on 6 August 2019. One hundred percent of bridge projects were affected prior to incorporating these best practices. On average, the USCG processing time for each project has decreased from 10 months to less than 180 days by incorporating the best practices mentioned in the USCG's Lessons Learned Presentation coupled with several other factors. When reviewing application materials as they are received, rather than after the application is complete, the USCG has reduced the time required to make a permit decision once the application is complete. The agency has also improved coordination and transparency with the applicant by providing written notice of missing or incomplete application materials and notification when the application is deemed to be complete. Lastly, by providing a preliminary navigation clearance determination prior to NEPA scoping the USCG has eliminated the time spent by the applicant evaluating bridge designs that will not meet the reasonable needs of navigation.

U.S. Coast Guard Lessons Learned for Major Infrastructure Projects

REDEVELOPING PROCESSES FOR PUBLIC NOTICES AND PLAN
SHEETS FOR BRIDGE PERMIT APPLICATIONS



**DHS > USCG: USCG has vast majority of projects of all DHS components.

USCG Equities with Dashboard Projects

Equities	Example
Bridge Permitting	Alaska LNG Project
Navigation Consultation	Mid-Barataria Sediment Diversion
Private Aids to Navigation	Bay State Wind
Waterway Suitability Assessment	Liberty Development



There are currently 9 active projects with CG equities on the FAST-41 and MIP Dashboards. Two others projects have already been either completed or cancelled.

We have four main equities and they're shown on the slide with an example project for each. Most of the projects involve more than one equity. Bridge Permitting is the only equity with permitting milestones, which is why our office represents the CG in the Working Groups. The AKLNG Project is currently the only dashboard project with CG permitting milestones.

Stats below, if needed:

Bridge Permitting: 1

Nav Consultation: 6

PATON: 4

Waterway Suitability: 5

Yearly Bridge Permit Stats

Bridge Permits Issued	32
Bridge Permits with EIS/ROD	5
EIS/ROD with USCG-Lead	0



**The USCG issues permits for bridges crossing navigable waters of the US, and international bridges into Mexico and Canada. That includes Highway, Railroad, Pedestrian, Pipeline, Conveyor Bridges, and even the occasional zip line. Also issue permits for solid fill causeways.

Typically issue average of 32 bridge permits/year. 5 EIS's, zero with CG-lead. CG-lead EIS projects are rare. FHWA (and assigned states) are lead for over 70% of bridge projects. USCG is lead for about 20%. Other lead agencies include, USACE, FRA, FTA, DOD, FERC, etc. State DOT's are the majority of applicants.

Public Notice Requirements: Old Process

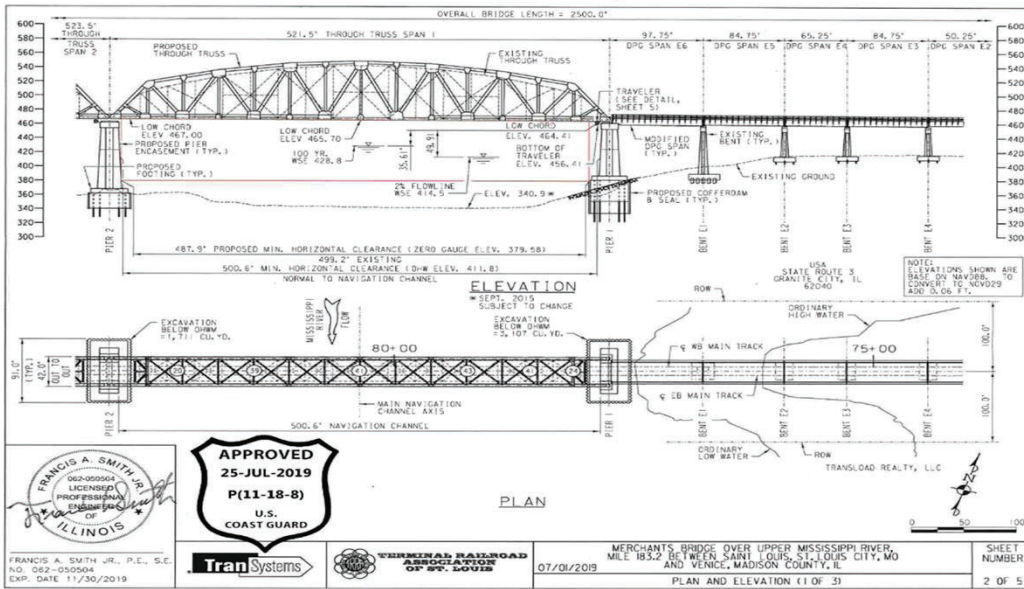
- NOTICES WERE ONLY PUBLISHED AFTER RECEIVING A COMPLETED APPLICATION
 - A COMPLETE APPLICATION INCLUDES:
 - * FINAL ENVIRONMENTAL DOCUMENT (FEA/FEIS/ROD)
 - * WATER QUALITY CERTIFICATION
 - * COASTAL ZONE MANAGEMENT
 - SOLICITED NAVIGATION AND ENVIRONMENTAL COMMENTS REGARDLESS OF LEAD
-



** Our Notices let the public and stakeholders know that we have an application for a bridge project before us. We mail it to their homes and agencies and also post on a website. Contains brief description of the project, proposed vs. existing nav clearances, lfa and their NEPA document.

The old process for Public Notices...see above.

Plan Sheet Example



Our Plan sheets accompany the public notices so maritime interests and the public can visualize what is proposed. Plan sheets are not blueprints, just simpler drawings of a bridge and its proposed navigational opening. We essentially approve the area through which navigation passes.

Plan sheets generally include a location sheet, elevation view, plan view, and typical section view.

Public Notice and Plan Sheet Challenges

CHALLENGE:

PERMIT DECISION DELAYED UNTIL AFTER COMPLETED APPLICATION AND PUBLIC NOTICE COMMENT PERIOD

SOLUTION:

DEVELOPED COORDINATION MILESTONES WITH FHWA AND OTHER AGENCIES



One of our challenges, The old process waited until issuance of final env document, and receipt of WQC/CZM to publish PN, followed by a 30-day comment period. Comments then had to be adjudicated.

As a solution, the USCG along with -FHWA, USACE, EPA, FWS, and NOAA – were all signatories to a 2018 Working Agreement.

- The Working Group developed Coordinated Milestones for each agency and separated them into three phases: Pre-NOI, NOI to ROD, and Post-ROD.

-As a result, the USCG now coordinates with lead federal agency during Pre-NOI phase to establish preliminary minimum navigational clearances to better inform the alternatives in the environmental doc.

-Once the DEIS with preferred alternative is available, and complete plans received, USCG may proceed with PN and comment period.

This is much sooner than the old process.

Public Notice and Plan Sheet Challenges

CHALLENGE:

SOLICITED COMMENTS FOR ENVIRONMENTAL IMPACTS REGARDLESS OF LEAD AGENCY STATUS

SOLUTION:

WHEN NOT THE LEAD AGENCY, USCG ONLY SOLICITS FOR COMMENTS RELATED TO NAVIGATION



In the old process, the USCG used to solicit for both navigational and environmental comments regardless of lead status. This resulted in additional man-hours to adjudicate comments meant for lead agency.

In the new process, our PN states that LFA acts on USCG's behalf to satisfy NEPA. It solicits comments only regarding navigation (or environmental comments related to navigation). It directs readers to LFA's docket or website **to review the** environmental documents. This ensures that there is no duplication of effort for EIS projects. Also, for projects where the env doc has already been finalized, it doesn't reopen solicitations for comment.

Public Notice and Plan Sheet Challenges

CHALLENGE:

INCONSISTENCY THROUGHOUT DISTRICT OFFICES

SOLUTIONS:

UPDATED GUIDANCE AND PROCEDURES FOR DISTRICT OFFICES

INITIATED PILOT PROGRAM TO REVIEW DISTRICT PUBLIC NOTICES PRIOR TO PUBLICATION



Another challenge, The CG has 10 district bridge offices across the country – each with varying amounts of permitting workload. Districts might go months without issuing public notices. In the old process, Districts published PN’s with plan sheets prior to HQ review, or even HQ awareness of the project. HQ reviewed PN’s during the comment period instead of before publication. This sometimes required the applicant and DOT contracted engineers to modify plan sheets multiple times. Supplemental PN’s were sometimes required, which lengthened the comment period.

Since then, in coordination with District Offices, HQ has updated policy, guidance, checklists, and templates to model public notices – both for lead and non-lead projects. Getting District participation was key to its success.

Also, this year, we began pilot program with certain districts to pre-review public notices/plan sheets prior to publication. Intent of pilot program is to ensure all district offices receive the same feedback resulting in better consistency throughout the program.

Public Notice and Plan Sheet Challenges

CHALLENGE:

DISCONNECT BETWEEN APPLICANTS AND CONSULTANTS

SOLUTION:

FHWA LIAISON VISITS TO STATE DOT'S

LESSONS LEARNED FROM STATE DOT PROFESSIONAL ENGINEERS



Another challenge, In the old process, applicants may not have understood the purpose of our plan sheet requirements or our expectations. This frequently resulted in missing key data necessary to inform a permit decision and to inform the public. New/reworked plan sheets took additional time to complete and further delay permit decisions.

Now, the Bridge Program, through our FHWA liaison, is spreading the word about our permitting process and inviting not only those folks that develop the applications, but also managers, professional engineers and environmental staff so that they all understand the process better.

- In addition, the Bridge Program is starting to connect professional engineers in different State DOT offices to share how they develop project plan sheets. We anticipate the engineers will provide valuable lessons learned throughout the process.

Results to Date

- PERMIT DECISIONS RENDERED WITHIN 180 DAYS.
- PUBLIC NOTICES HAVE BEEN MORE CONSISTENT THROUGHOUT THE NATION.
- STATE DOT'S HAVE EXPRESSED APPRECIATION FOR GUIDANCE ON PLAN SHEETS AND OPPORTUNITIES TO SHARE THEIR LESSONS LEARNED



Since we've implemented the new processes, we've had consistency meeting requirement to render a permit decision within 180 days after receiving a completed application for non-MIP projects. And the coordination milestones will provide even earlier permit decisions for MIPs. As an example, AKLNG Public notice was issued ten months prior to rod target date. Permit decisions can be made easily within required timeframe.

No public notices have required supplemental information after publication

And, State dot's have expressed appreciation for guidance on plan sheets and opportunities to share their lessons learned

How Might This Relate to Your Agency?

- IMPROVED COORDINATION BETWEEN DIFFERENT DISTRICTS, DIVISIONS, GEOGRAPHICAL AREAS INVOLVED IN SAME PROJECT
- STANDARDIZATION OF OUTDATED PROCEDURES, TEMPLATES, CHECKLISTS
- BETTER COORDINATION WHEN AGENCY RELIES ON SPECIALISTS, CONSULTANTS, SUBJECT MATTER EXPERTS, ETC.



Enables consistency throughout different districts/regional/functional areas

Promotes Standardization of Outdated procedures, templates, checklists

Creates open dialogue to share expectations and obtains lessons learned from specialists (consultants, subject matter experts, professional engineers, etc.) early in the process to avoid repeated requests for updates/revisions which might be needed after a contract with specialists is over.



Department of Commerce (DOC) FY19 ARC Stage Assessment Indicator Questionnaires

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s [FY19 OED Assessor Tool](#). Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

BP ii-1

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.”³

Please respond to all questions separately for up to two⁴ ERA processes/project types/resource areas⁵ for FAST 41-covered projects for which your agency is responsible during FY19.

ERA Process/Project Type/Resource Area #1: **Endangered Species Act**

1. Does your agency have established ERA process document(s)⁶ that tell the project sponsor what information they need to provide to the agency for the ERA process? *If yes, please also provide example process documents on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

Yes. Example Checklists and Guidance:

<https://www.fisheries.noaa.gov/content/how-submit-consultation-request-southeast>

<https://www.fisheries.noaa.gov/alaska/consultations/section-7-consultations-alaska>

<https://www.fisheries.noaa.gov/pacific-islands/endangered-species-conservation/esa-consultations-pacific-islands>

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing the process documents described in Question #1?

n/a

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

n/a

3. *(Skip if response to Question #1 is no)* How does your agency disseminate the ERA process document(s) to project sponsors?

³ FY19 BPAT, p. 13.

⁴ Providing information for more than one ERAs processes/project types/resource areas may demonstrate further progress in implementing the BP’s intent to the OED assessors.

⁵ The decision to organize the ERA process documents by ERA process, by project type, or by resource area is at the agency’s discretion.

⁶ ERA process document(s) may include templates, application forms, flow charts, guidance document, and/or checklists.

The process documents are posted on our website and are shared with lead agencies during project initiation if the agency is not already aware of them.

4. *(Skip if response to Question #1 is no)* What ERA process types and ERA process elements are covered by the ERA process document(s)⁷ that your agency provides to project sponsors?

The links above cover NOAA's Endangered Species Act Section 7 consultation process.

5. *(Skip if response to Question #1 is no)* Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?⁸

Yes.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

In 2017, we sought public input on how we could improve our Endangered Species Act Section 7 consultations and other regulatory processes through a request published in the Federal Register.

- b. If yes, what were your agency's findings, and were potential improvements identified?

We received input from a wide range of stakeholders on modernizing the implementation of the ESA in order to improve collaboration, efficiency, and effectiveness. Based on the public input, a number of potential improvements were identified.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

In response to the improvements identified, NOAA Fisheries and the U.S. Fish and Wildlife Service (Service) jointly finalized revisions to regulations that implement portions of the Endangered Species Act (ESA). Through this rule making effort, the agencies have changed some of the parameters under which other federal agencies must consult with the Service and NOAA Fisheries to ensure their actions do not jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. The agencies have also changed various measures to clarify some of the standards under which listings, delisting, reclassifications, and critical habitat designations are made. In addition, there is an expedited consultation process

⁷ The ERA types listed here should match the documentation provided under Question #1.

⁸ This evaluation could be internal or external (not including evaluation by OED).

described in the regulations as well as an increased emphasis on the development of programmatic consultations (see our response to BP v-2 below for more on our expanded use of programmatic).

The proposed rules were published on July 25, 2018, for public comment. The final rules were signed on August 12, 2019 and published on August 27, 2019. The Regulations for Listing Species and Designating Critical Habitat (84 FR 45020) are effective on September 26, 2019. The Regulations for Interagency Cooperation (84 FR 44976) are effective on October 28, 2019.

NOAA Fisheries posted information regarding the revised ESA Regulations on our website, and, in conjunction with the Service, have provided several webinars to stakeholders and action agencies to walk through the changes. These webinars are ongoing.

ERA Process/Project Type/Resource Area #2: Essential Fish Habitat

1. Does your agency have established ERA process document(s)⁹ that tell the project sponsor what information they need to provide to the agency for the ERA process? *If yes, please also provide example process documents through MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

Yes. Example Guidance and Checklists:

<https://www.fisheries.noaa.gov/national/habitat-conservation/consultations-essential-fish-habitat>

<https://repository.library.noaa.gov/view/noaa/4187>

<https://www.fisheries.noaa.gov/pacific-islands/consultations/frequently-asked-questions-about-essential-fish-habitat-pacific#checklist>

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing the process documents described in Question #1?

n/a

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

⁹ ERA process document(s) may include templates, application forms, flow charts, guidance document, and/or checklists.

n/a

3. (Skip if response to Question #1 is **no**) How does your agency disseminate the ERA process document(s) to project sponsors?

The process documents are posted on our website and are shared with lead agencies during project initiation if the agency is not already aware of them.

4. (Skip if response to Question #1 is **no**) What ERA process types and ERA process elements are covered by the ERA process document(s)¹⁰ that your agency provides to project sponsors?

Magnuson-Stevens Act Essential Fish Habitat (EFH) Consultations

5. (Skip if response to Question #1 is **no**) Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?¹¹

Yes. NOAA Fisheries has conducted an internal evaluation of its EFH documents.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

In August 2019, the NOAA Fisheries National EFH Coordinator convened a workshop with all of the Regional EFH Coordinators (representatives from Alaska, Pacific Islands, West Coast, Southeast, and Greater Atlantic), and habitat policy staff, to review the existing EFH Consultation Guidance and propose an approach for updating the document.

- b. If yes, what were your agency's findings, and were potential improvements identified?

At the workshop, NOAA Fisheries determined that the EFH Consultation Guidance warrants updating. Potential improvements include: better organization of the document, plain language instructions on the consultation process, and enhanced content development (i.e., some topics missing from the current version of the guidance).

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

NOAA Fisheries has developed a timeline for the EFH Consultation Guidance improvements and has established a writing team for the content development.

¹⁰ The ERA types listed here should match the documentation provided under Question #1.

¹¹ This evaluation could be internal or external (not including evaluation by OED).

BP v-1

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.”¹²

1. Does your agency have documented process(es) to address ERA staff changes and ensure continuity of project-specific knowledge and communications? This process should:
 - “[D]efine the points in the ERA process for FAST-41 projects at which your agency will capture and record key information developed at a sufficient level of detail to enable potential future transfer in the event of a staff transition,” and
 - Describe your how your agency “updates other entities on agency personnel changes for covered projects.”¹³

If yes, please also provide the process document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

Yes. For ESA and EFH staff, NOAA Fisheries’ project transition processes are flexible depending on the project. The type/level of transition is also staffing dependent. Often times we have more than one person in place working on any one project so work can be shifted to another staff as staff leave. Prior to a staff person leaving we take the following actions -

- Management/Staff notify lead agencies prior to transition that a staff change is going to happen.
- Exiting staff discuss with/prepare a transition plan for their supervisor to ensure a smooth workload transition.
- Exiting staff organize their project files (electronic and paper) in such a manner so that the staff taking over the project can easily locate them.

For MMPA authorizations, a project is assigned to an analyst upon receipt of a MMPA ITA application. However, prior to receipt of an application, MMPA staff may engage in early coordination with an applicant on the project. If the staff member assigned to the project changes once the application is received, the previous analyst will email the lead action agency and applicant with the name and contact information for the new analyst. When staff are leaving their position as an MMPA analyst, time is scheduled with the Division Chief to discuss their current projects. The Division Chief makes a decision

¹² FY19 BPAT, p. 21.

¹³ FY19 BPAT, p. 22.

about assignments of projects to remaining personnel, and meetings are set up between the Division Chief, the existing analyst, and the newly assigned analyst to ensure that project information is relayed. In addition, the MMPA program has designated a POC that provides support for all FAST-41 projects and can provide continuity across staff changes, and the program maintains a project tracking spreadsheet to ensure that no milestones are missed as a result of staff changes. Any staff change is communicated promptly to the lead action agency and applicant.

2. (Skip if response to Question #1 is yes) In FY19, did your agency begin or continue developing a process as described in Question #1?

n/a

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

n/a

3. (Skip if response to Question #1 is no) How does the process described in Question #1 enable potential future transfer of project-specific knowledge and communications in the event of a staff transition? Briefly summarize the ERA process steps captured and describe how staff changes are communicated to applicants/project sponsors and other affected governmental entities participating in project review.

The processes described above ensure transfer of project-specific knowledge because they require the departing staff member to meet with their supervisor and the incoming staff member to bring them up to speed on the current status of the project and relevant details for the consultation or authorization. The lead agency and project sponsor, if appropriate, are also notified of the staff change via email.

4. (Skip if response to Question #1 is no) Did your agency apply the process as described in Question #1 for one or more FAST-41 projects?

Yes.

- a. If yes, please upload supporting record(s)¹⁴ of implementing the process for up to two¹⁵ FAST-41 covered project ERAs. Also, please describe

¹⁴ This should include the record that project sponsors and other FAST-41 participants were informed of staff changes for covered projects in FY 2019 in a timely manner and record of implementing the project continuity process (FY19 BPAT, p. 22).

¹⁵ Providing information for up to two ERAs may demonstrate further progress in implementing the BP's intent to the OED assessors. Please note the two ERA examples could be for the same or different projects.

whether or not any substantial schedule changes occurred as a result of the staff transition and if so how ERA processes were impacted.

FAST-41 ERA #1:

(n/a. Per the revised FY19 ARC guidance, no supporting records are required)

FAST-41 ERA #2:

n/a

b. If no, certify below that you had no opportunity to apply the process in FY19.¹⁶

n/a

5. (Skip if response to Question #1 is **no**) Was the implementation of the process described in Question #1 evaluated?¹⁷

No.

a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

n/a

b. If yes, what were your agency's findings, and were potential improvements identified?

n/a

c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

n/a

¹⁶ Per the FY19 BPAT (p. 22-23), if no staff changes or substantive schedule changes occurred your agency can receive a **"No Opportunity" (N/O)** assessment result for implementing this part of the BP in FY19. Your agency can alternatively choose to demonstrate further progress in implementing the BP by demonstrating the application of the BP in other FYs.

¹⁷ This evaluation could be internal or external (not including evaluation by OED).

BP v-2

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, to reduce duplicative actions (e.g., related to data collection and analysis).

Joint processes could 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.’”¹⁸

1. Does your agency have existing or established procedure(s)/process(es) in place for:

- “Ensuring existing joint processes/programmatic approaches to reduce duplicative actions have been utilized during the past FY, when appropriate,”
- Identifying new opportunities when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs,”
- “Creating new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists,” and
- “Utilizing the joint processes/programmatic approaches.”¹⁹

Yes.

2. (Skip if response to Question #1 is **yes**) In FY19, did your agency begin or continue developing a process/procedure as described in Question #1?

n/a

a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

n/a

3. (Skip if response to Question #1 is **no**) For the below items regarding the procedure(s)/process(es) as described in Question #1, provide documentation²⁰

¹⁸ FY19 BPAT, p. 21.

¹⁹ FY19 BPAT, p. 24.

²⁰ Documentation could include procedures, process documents, or other types of process documents.

(as appropriate) to demonstrate progress in implementing the BP²¹ and describe (as applicable) how your agency has:

- a. Ensured that existing joint processes and programmatic approaches have been utilized during the past FY to reduce duplicative actions.

All incoming Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultation requests are evaluated to determine if they fall within an existing programmatic consultation. One of our main efforts to streamline consultations is the expanded use of programmatic consultations. Our efforts have already reduced the total number of individual consultations substantially while providing consistent mitigation across similar activities. We have increased the number of ESA programmatic consultations nationwide to over 120. These programmatic consultations address over 10,000 individual activities per year. For example, the construction general permit program consultation with the Environmental Protection Agency covers about 850 individual activities annually; the U.S. Army Corps of Engineers (USACE) North Atlantic Division Not Likely to Adversely Affect Program covers about 660 activities a year, and the Standard Local Operating Procedures for Endangered Species to Administer Maintenance or Improvement of Stormwater, Transportation, and Utility Actions Authorized or Carried Out by the USACE in Oregon covers about 480 individual actions annually.

For EFH, we have recently created and implemented programmatic consultations in our Greater Atlantic and Southeast Regions for Federal Highway Administration transportation projects which include: 1) bridge repair, demolition, and replacement; 2) culvert repair and replacement; 3) docks, piers, and waterway access projects; and 4) slope stabilization projects. We also completed EFH programmatic consultations with the Army Corps for their General Permits in multiple regions.

The overall benefit of these programmatic consultations is that although it likely takes longer to write one programmatic Biological Opinion or EFH consultation than a non-programmatic one, it is far quicker to conduct one programmatic consultation than hundreds or thousands of individual consultations.

(Skip if your agency had no existing joint processes/programmatic approaches as of January 2019). For agencies with existing joint processes/programmatic approaches to reduce duplicative actions as of January 2019 that are applicable to FAST-41 project types, provide a list of these existing joint processes/programmatic approaches²².

We have implemented over 200 ESA and EFH programmatic consultations since 2005.

²¹ Providing documentation on MAX.gov or as web links may replace written descriptions as long as page numbers are referenced for relevant sections.

²² Existing joint processes may be listed in the textbox provided, at web link(s) entered in the textbox that goes directly to the list, or in accompanying document(s) uploaded to the BP v-2 MAX.gov with relevant page numbers provided in the textbox.

- b. Identified new opportunities for establishing joint processes/procedures when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs.

NOAA and DOI/BOEM have identified the opportunity to increase coordination on offshore wind projects (such as the Bay State Wind project) and have two upcoming workshops planned in November 2019 and spring 2020. The focus of these meetings is to develop joint processes for developing project timelines, communicating data needs, and identifying potential issues early in the project process in order to increase efficiency and minimize back-and-forth and duplicative effort for project reviews.

- c. Created new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists.

NOAA and DOI/BOEM held a highly successful interagency workshop on July 29-31, 2019. It brought staff and leadership of the two agencies together to increase understanding of each other's mandates and policies, strengthen relationships and communication processes, and develop action plans to create greater efficiencies in the MMPA and ESA consultation processes for BOEM activities. Coming out of the workshop, subgroups have been established to tackle specific issue areas, including: developing standard mitigation measures, exploring new programmatic consultations, and developing joint documents to increase consistency.

- d. Utilized the joint processes/programmatic approaches.

n/a, covered in (a) above.

- e. *(Skip if your agency had existing joint processes/programmatic approaches as of January 2019).* If your agency had no existing joint processes and/or programmatic approaches to reduce duplicative actions, as of January 2019, that are applicable to FAST-41 project types, please certify below in order to qualify for a **“No Opportunity” (N/O)** assessment result for Questions #3a and #3d.

n/a

- 4. *(Skip if response to Question #1 is no)* For the questions below, provide information²³ on how your agency applied the procedure/process for

²³ Examples may be described in the textboxes provided, at a web link(s) entered in the textbox that goes directly to the relevant information, or in accompanying document(s) uploaded to the BPv-2 MAX.gov page with relevant page numbers provided in the textbox.

developing and using joint processes/programmatic approaches to reduce duplicative actions in FY19 as described in Question #1?

- a. Did your agency have an opportunity to utilize or apply an *existing* joint process/programmatic approach to reduce duplicative actions in FY19? If yes, provide at least one example.

n/a, covered in question 3 above.

If no, please certify below that your agency had no opportunity to apply the agency's *existing* (as of January 2019) joint processes/procedures to qualify for a **"No Opportunity" (N/O)** assessment result for Question #4a.

n/a

- b. Provide information on an opportunity your agency explored in FY19²⁴ to create a *new* joint process/programmatic approach to reduce duplicative actions, and any decisions made about the viability of such an opportunity.

n/a

5. (Skip if response to Question #1 is **no**) Was the implementation of your agency's procedure/process as described in Question #1 evaluated?²⁵

Yes. As a general practice, NOAA/NMFS continually evaluates the potential development and implementation of programmatic approaches. In particular, in 2018 NOAA/NMFS' Greater Atlantic Regional Field Office (GARFO) and the Federal Highway Administration (FHWA) developed programmatic agreements for ESA and EFH consultations. In 2019, FHWA, in coordination with state Departments of Transportation (DOTs) developed a report looking back at the past year of working with these programmatic agreements (PA) and overall found that the ESA PA was successful, but there were areas where the DOTs felt improvements in efficiency could still be made. In addition, there were areas identified for improvement in the EFH PA, which had some success over the past year, but was not as successful as the ESA PA.

In addition, a cross-NOAA, internal *Trust Resource Statutes Working Group (TRSWG)* has been established; agenda items include best practices for establishing and implementing programmatic ERAs for agency actions.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

²⁴ For FY19, the expectation for this BP is that all agencies will explore opportunities to create new joint processes/programmatic approaches to reduce duplicative actions.

²⁵ This evaluation could be internal or external (not including evaluation by OED).

NOAA/NMFS GARFO and FHWA/state DOTs met in July 2019 to discuss the effectiveness of the existing ESA and EFH programmatic agreements based on the findings of the FHWA/DOT report. This was accomplished via a day-long meeting at GARFO offices and included going over findings of the report and identification of issues that warranted improvements by the state DOTs followed by a discussion of potential ways to improve efficiency of the agreements.

NOAA TRSWG representatives meet on a regular basis and share the successes and challenges in establishing programmatic consultations for their line offices, among other topics.

- b. If yes, what were your agency's findings, and were potential improvements identified?

The findings of the FHWA/state DOT report were that the ESA programmatic was working well, but there were still areas for improvement. For example, the state DOTs felt that some actions were consistently determined to fall under the programmatic but required additional coordination to make the determination that they qualified. The discussion mainly focused on finding a balance between making the programmatic flexible enough to avoid unnecessarily limiting some projects/activities and reducing the amount of documentation provided upfront to justify a project/activity as a covered project. Coordination is ongoing between FHWA and NOAA/NMFS GARFO to revise the programmatic agreements.

NOAA TRSWG participants overwhelmingly support the development of additional programmatic consultations for agency actions. The TRSWG also acknowledges that establishing new programmatic consultations requires a significant time investment upfront. However, if the programmatic consultation covers hundreds or thousands of individual actions that would otherwise require individual consultations, there can be significant efficiency gains over time.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

Currently coordination is ongoing between the agencies to revise the programmatic agreements. Regular meetings are held to check in on the progress of revisions and, once revised drafts of the programmatic agreements are developed, another in-person meeting will likely be held to discuss the revisions.

The NOAA TRSWG will continue to offer cross-NOAA information exchange opportunities and provide a forum for sharing best practices, templates, and sample programmatic documents.

BP vi-1

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.”²⁶

Per the FY19 BPAT (p. 26), in FY19 agencies are to “establish a library²⁷ and begin populating it with new or existing tools and other relevant information, or conduct maintenance on an existing library, making improvements as necessary.”²⁸

1. Does your agency have a consolidated resource library that is publicly available and includes, but is not limited to, the items listed below to provide transparency to infrastructure ERA processes for all agencies and the public:
 - a. Instructions for application processes/consultation processes,
 - b. Information on the agency’s decision-making criteria for ERA processes, and
 - c. Information on the types of analysis²⁹ the agency conducts on project sponsor/applicant-provided information?

If yes, please also provide a link below to the consolidated resource library.

No. We have online resources for each of our ERAs (see our response to BP v-1), and several websites that cover multiple ERAs, but we do not yet have one consolidated resource library that contains instructions and information about all of our ERAs.

2. *(Skip if response to Question #1 is yes)* Has your agency begun or continued developing the consolidated resource library as described in Question #1?

Yes.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

We are in the initial phase of developing the consolidated resource library. We have identified the ERAs to be included and the currently distributed web resources that the consolidated resource library would link to. The next steps are to coordinate with our CIO’s office to build a new web page and establish a timeline.

²⁶ FY19 BPAT, p. 26.

²⁷ “Existing agency policy and approaches on sensitive or proprietary information remain in effect for all information sharing” (*ibid*).

²⁸ For example, agencies could chose to put information from other BPs into its resource library, such as the ERA resource documents (as described in BP ii-1), information about their pre-application/pre-official review processes (as described in BP i-2), and/or information about joint processes and procedures (as described in BP v-2).

²⁹ Each agency can chose to share at the project or review type level.

3. *(Skip if response to Question #1 is no)* Is there information you could legally share that you have not yet that would increase the transparency of the ERA process(es)? In your response, please describe briefly how your agency evaluated if there was additional information you could legally provide that would increase the transparency of the items listed in Questions #1b and #1c.³⁰

n/a

4. *(Skip if response to Question #1 is no)* How did your agency increase transparency of the consolidated resource library to the public? For example, how did your agency make stakeholders aware of the resource library and structure the resource library to increase ease of finding information?

n/a

5. *(Skip if response to Question #1 is no)* Was the effectiveness of the consolidated resource library for increasing transparency of the agency's ERA processes as described in Question #1 evaluated?³¹

n/a

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

n/a

- b. If yes, what were your agency's findings, and were potential improvements identified?

n/a

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

n/a

³⁰ OED will evaluate the information provided in the consolidated resource library to determine if it increases the transparency and predictability of the ERA processes as described in Question #1.

³¹ This evaluation could be internal or external (not including evaluation by OED).

BP vii-1

BP vii-1: “Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials³². The training materials 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, pre-application).”³³

Per the FY19 BPAT (p. 29), no agency can receive a “No Opportunity” (N/O) assessment result for this BP, as each agency can train either on FAST-41 program implementation or on implementation of one or more FY19 BPs.

Providing information for up to two trainings may demonstrate to the OED assessors of further progress in implementing the BP’s intent.

Per the FY19 BPAT (p. 28), an agency can choose to implement this BP using online or in-person training. Recognizing the difference between live³⁴ trainings and online trainings, this questionnaire asks agencies to describe live training in Question #4a (but not #4b) and online training in Question #4b (but not #4a).

1. In FY19, did your agency have an established or existing training regarding either implementation of the FAST-41 program or of one or more of the Permitting Council’s FY19 BPs for Federal, State, and tribal governments and local permitting officials?³⁵

Yes.

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing training as described in Question #1?

n/a

³² Per the FY19 BPAT (p. 28), “Agencies will implement this BP by providing training specifically related to implementing FAST-41 or providing training specifically related to implementing one or more FY 2019 BPs that improve the ERA process for infrastructure projects.”

³³ FY19 BPAT, p. 28.

³⁴ Live training involves an instructor and the ability of the audience to ask questions (whether virtual or in-person).

³⁵ The BP’s intent is that training materials are made available to Federal, State, and tribal governments and local permitting officials, include the agency informing these groups that the training materials exist and where they are available. Each agency determines the appropriate audience of its training.

- a. If yes, please provide some details below about where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

n/a

3. *(Skip if response to Question #1 is no)* Please describe how your agency determined the appropriate learning objectives and intended audiences for up to two training(s) described in Question #1³⁶.

FY19 Training #1:

We determined there was a need for internal NOAA training on FAST-41 and EO 13807 based on input from our regions and program offices who were having challenges understanding all of the FAST-41 requirements and reconciling the many different guidance documents (OMB/CEQ FAST-41 guidance, FAST-41 and EO 13807 data management guides, OFD MOU, and internal NOAA guidance). We designed our trainings for regional ESA, EFH, and NEPA staff to explain each of the FAST-41 and EO 13807 requirements and describe the processes for how to engage with lead agencies and the necessary reporting requirements.

FY19 Training #2:

As with the training above for regional staff, we designed a training for our MMPA and Protected Resources staff based in headquarters specific to their engagement in the FAST-41 process and the requirements that they were required to fulfill.

4. *(Skip if response to Question #1 is no)* In FY19, did your agency hold one or more³⁷ live trainings or make available online trainings as described in Question #1?³⁸

Yes.

- a. *(Skip if your agency chose to implement BP using online training)*. If yes, please describe how each training³⁹ was made available to the intended

³⁶ An agency that conducts live training would only need to provide the same live training program multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the intended audience and learning objectives of up to two discrete times/locations that the live training was conducted.

³⁷ Providing information for two trainings may demonstrate further progress in implementing the BP's intent to the OED assessors.

³⁸ OED expects agencies to inform the intended training audience of the available training as part of "making training materials" available.

³⁹ An agency that conducts live training would only need to provide the same training multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this

audience. Also, provide a record on MAX.gov of the execution of the live training.

FY19 Live Training #1:

We provided six FAST-41 trainings during FY19 via webinar for staff in our Greater Atlantic, Southeast, West Coast, and Pacific Islands regions.

FY19 Live Training #2:

We provided a live training to the NMFS Offices of Protected Resources on May 15, 2019. The training was publicized via email to all office staff.

- b. *(Skip if your agency chose to implement BP using live training)*. If yes, please describe how each training was made available to the intended audience. Also, provide a functional link to the online training below.

FY19 Online Training #1:

n/a

FY19 Online Training #2:

n/a

5. *(Skip if response to Question #1 is no)* Was the implementation of the training described in Question #1 evaluated?⁴⁰

Yes.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

Following each webinar, headquarters staff reached out to the regional organizers to solicit feedback and suggestions for improvement.

- b. If yes, what were your agency's findings, and were potential improvements identified?

Suggested improvements to the presentation included: lengthening the amount of time for the webinar to allow for more questions and answers, including a live

situation, an agency would use the two textboxes to explain the two times/locations that the live training was conducted.

⁴⁰ This evaluation could be internal or external (not including evaluation by OED).

navigation through a Permitting Dashboard's project page, and including more specificity about NOAA's specific ERA milestones and the milestone dependencies we have. There was also a suggestion to develop a NOAA infrastructure intranet site to house the presentation as well as related FAST-41 references and resources.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

All of the suggested improvements to the presentation were implemented in subsequent webinars. We are currently in the process of developing the infrastructure intranet site—a list of resources to include on the site has been compiled and a staff member is currently constructing the site.

BP viii-2

To meet the intent of fiscal year 2019 (FY19) best practice (BP) viii-2, each agency will present at a Working Group Meeting "on past and planned efforts to improve the ERA processes and performance metrics by Agencies sharing lessons learned" (FY19 Best Practices Assessment Tool, (BPAT) page 30). During the Working Group Meeting presentations, each agency should present on lessons learned or improvements/innovations it made to improve the efficiency, transparency, predictability, and/or accountability of any environmental review or authorization (ERA) process(es) that could be applicable to infrastructure projects. While an agency could present on an innovative approach for meeting one or more FY19 BPs, the BP viii-2 presentation is an opportunity for agencies to present about work planned or implemented to improve the ERA processes for infrastructure projects that is beyond the FAST-41 BPs, projects in FY19, and/or even FAST-41 projects. An agency could present about a programmatic solution or a program (FY19 BPAT, page 31) or could discuss reducing or removing a component of an ERA process that was determined to be no longer beneficial.

For the FY19 ARC, FPISC-OED will assess if each agency's Working Group Meeting presentation in FY19 provided sufficient details of the lesson learned/problem solved and benefits of the solution so that other agencies can consider how adopting the innovation or process improvement might benefit them. To facilitate information sharing, agencies should upload any presentation materials to their BP viii-2 pages. Per the FY19 BPAT (page 30), there will be no data call/questionnaire for BP viii-2.

Agencies should sign up for a Working Group presentation date on MAX.gov: <https://community.max.gov/x/fjl2Yw>.

NOAA presented on our lessons learned at the One Federal Decision Working Group meeting hosted by the Department of Commerce on September 5, 2019.
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Department of Defense (DOD)

BP i-1

BP i-1: “The lead 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 lead agency may, but is not required to, use past experience to develop an initial list of stakeholder contacts. Lead agencies should solicit involvement of cooperating and participating agencies in the early stakeholder engagement as appropriate and allowed by applicable laws and regulations.”³

Per the FY19 BPAT (p. 8), your agency can choose to implement this BP program-wide (by environmental review/authorization (ERA) process) or by project.

- *If your agency chooses to implement this BP **program-wide**, fill out the below questions, including Question #4a (but not Question #4b).*
- *If your agency chooses to implement this BP on a **project basis** and had a **new** FAST-41 project since January 2019, your agency should fill out the below questions, including Question #4b (but not Question #4a).*
- *If your agency chooses to implement this BP on a **project basis** and had **no new** FAST-41 projects since January 2019 for which the project schedule indicated a stakeholder engagement opportunity⁴, your agency should certify in the text box below that it had no opportunity to implement this BP.⁵*

Not applicable, DoD is not a lead agency for FPISC projects.

1. Does your agency have an established or existing process or procedure for conducting proactive⁶ stakeholder engagement that can be implemented for FAST-41 covered projects on a program-wide or a project-by-project basis?

³ FY19 BPAT, p. 8.

⁴ Under this BP, agencies should implement proactive stakeholder engagement. However, OED recognizes it may not be feasible to have productive stakeholder engagement before a certain point in the project development or design. The project schedule should identify the point at which the project is ready for proactive stakeholder engagement prior to the statutorily required stakeholder engagement.

⁵ Per the FY19 BPAT (p. 9), your agency may choose to receive a “**No Opportunity**” (N/O) assessment result if your agency “certifies that the lead agency’s projects were past the point of ERA processes for early stakeholder engagement prior to the statutorily required early stakeholder engagement.”

⁶ Per the FY19 BPAT (p. 8), “proactive” is defined as occurring before statutorily or regulatorily required.

If yes, please also provide the process document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing a process as described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* Please describe how the process/procedure enables your agency to identify relevant stakeholders and the appropriate methods by which to reach them.⁷

4. *(Skip if response to Question #1 is no)*

- a. If your agency chose to implement this BP on a **program-wide basis**, describe up to two proactive stakeholder engagement approaches that your agency used for ERA process(es) in FY19.⁸

Proactive Outreach Methods in FY19 for ERA Process #1:

Proactive Outreach Methods in FY19 for ERA Process #2:

- b. If your agency chose to implement this BP on a **project basis**, describe up to two proactive stakeholder engagement approaches that your agency used for new FAST-41 project(s) in FY19.⁹

⁷ Details could include stakeholder identification steps, a list of options for outreach methods, and communication records requirements.

⁸ Listing more than one approach for each ERA process or program may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁹ Listing more than one approach for each FAST-41 covered project may demonstrate further progress in implementing the BP's intent to the OED assessors.

Proactive Outreach Methods in FY19 for new FAST-41 Project #1:

Proactive Outreach Methods in FY19 for new FAST-41 Project #2:

5. (Skip if response to Question #1 is **no**) Was the implementation of the proactive outreach methods as described in Question #1 evaluated?¹⁰

a. If yes, when and how was the effectiveness of your agency's new or existing/established methods assessed?

b. If yes, what were your agency's findings, and were potential improvements identified?

c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

¹⁰ This evaluation could be internal or external (not including evaluation by OED).

BP i-2

BP i-2: “The lead 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 lead 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).”¹¹

1. Does your agency have an existing or established “pre-application/pre-official review process to allow project sponsors/applicants the opportunity to provide/communicate project-specific information to the lead agency and relevant other Federal agencies, Tribes, involved State agencies, and relevant local government entities prior to the initiation of official review processes (e.g., submission of application or other initiation of the ERA process)”¹²?

Not applicable, DoD is not a lead agency for FPISC projects.

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing a process as described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).¹³

3. *(Skip if response to Question #1 is no)* Summarize how the process described in Question #1 contains appropriate project application/review criteria and effectively communicates these criteria to potential project sponsors/applicants? *Please also provide the process document on MAX.gov or link below. For this and subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

4. *(Skip if response to question #1 is no)* Did your agency hold a pre-application/pre-official review meeting for one or more FAST-41 projects?¹⁴

¹¹ FY19 BPAT, p. 10.

¹² FY19 BPAT, p. 10.

¹³ Establishing a process as described in Question #1 would include creating criteria, establishing the process, and communicating the criteria to potential project sponsors/applicants (FY19 BPAT, p. 11).

- a. If **yes**, please upload one supporting piece of documentation¹⁵ per project onto MAX.gov.

FAST-41 Project #1 Name:

FAST-41 Project #2 Name:

- b. If **no**, certify below that you had no opportunity to apply the pre-application/pre-review process in FY19.¹⁶

- 5. *(Skip if response to question #1 is no)* Was the implementation of the process described in Question #1 evaluated?¹⁷

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

¹⁴ Providing information for two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

¹⁵ Examples of documentation include meeting agendas or follow-up emails (FY19 BPAT, p. 12).

¹⁶ Per the FY19 BPAT (p. 12), if no pre-application or pre-official review meetings occurred in FY19, then agencies can receive a **"No Opportunity" (N/O)** assessment result for implementing and evaluating the pre-application/pre-official review process in FY19. The agency can choose to demonstrate further progress in implementing the BP by demonstrating the application of the pre-application/pre-review process in other FYs.

¹⁷ This evaluation could be internal or external (not including evaluation by OED).

BP ii-1

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.”¹⁸

Please respond to all questions separately for up to two¹⁹ ERA processes/project types/resource areas²⁰ for FAST 41-covered projects for which your agency is responsible during FY19.

ERA Process/Project Type/Resource Area #1: **Defense Mission** **Compatibility Evaluation Process**

1. Does your agency have established ERA process document(s)²¹ that tell the project sponsor what information they need to provide to the agency for the ERA process? *If yes, please also provide example process documents on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

Yes, Defense Mission Compatibility Evaluation Process has been located on the following website since 2017. <https://www.acq.osd.mil/dodsc/contact/dod-review-process.html>

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing the process documents described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* How does your agency disseminate the ERA process document(s) to project sponsors?

¹⁸ FY19 BPAT, p. 13.

¹⁹ Providing information for more than one ERAs processes/project types/resource areas may demonstrate further progress in implementing the BP's intent to the OED assessors.

²⁰ The decision to organize the ERA process documents by ERA process, by project type, or by resource area is at the agency's discretion.

²¹ ERA process document(s) may include templates, application forms, flow charts, guidance document, and/or checklists.

4. (Skip if response to Question #1 is **no**) What ERA process types and ERA process elements are covered by the ERA process document(s)²² that your agency provides to project sponsors?

5. (Skip if response to Question #1 is **no**) Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?²³

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

ERA Process/Project Type/Resource Area #2:

1. Does your agency have established ERA process document(s)²⁴ that tell the project sponsor what information they need to provide to the agency for the ERA process? *If yes, please also provide example process documents through MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

2. (Skip if response to Question #1 is **yes**) In FY19, did your agency begin or continue developing the process documents described in Question #1?

²² The ERA types listed here should match the documentation provided under Question #1.

²³ This evaluation could be internal or external (not including evaluation by OED).

²⁴ ERA process document(s) may include templates, application forms, flow charts, guidance document, and/or checklists.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* How does your agency disseminate the ERA process document(s) to project sponsors?

4. *(Skip if response to Question #1 is no)* What ERA process types and ERA process elements are covered by the ERA process document(s)²⁵ that your agency provides to project sponsors?

5. *(Skip if response to Question #1 is no)* Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?²⁶

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

²⁵ The ERA types listed here should match the documentation provided under Question #1.

²⁶ This evaluation could be internal or external (not including evaluation by OED).

BP iii-1

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.”²⁷

If your agency does not interact with Tribes for any of its environmental reviews and authorization (ERA) process for FAST-41 covered projects, your agency will qualify for a **“Not Applicable” (N/A)** assessment result. *If this is the case, please certify below that your agency for “all of its ERA processes[,] it does not interact with Tribes for FAST-41 covered projects”²⁸ and do not further answer this questionnaire.*

Not applicable, DoD is not a lead agency for FPISC projects.

Please fill out the appropriate set of questions below based on whether your agency chose to implement this BP using a tribal consultation policy ([Questionnaire A](#)) or a consultation agreement or protocol ([Questionnaire B](#)).

Questionnaire A: Agencies with tribal consultation policies

1. Does your agency have a tribal consultation policy with Federally Recognized Tribes that ensures that:
 - “the Agency’s principles for consultation with Federally Recognized Tribes on natural and cultural resource identification and treatment decisions are incorporated,”
 - “Agency staff are competent in the Agency’s principles to ensure consistent application of the Agency’s tribal consultation policy,” and
 - “the Agency’s policy is consistent with Executive Order (EO) 13175”?²⁹

If yes, please also provide the tribal consultation policy document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

2. *(Skip if response to Question #1 is yes)* If FY19, did your agency begin or continue developing an agency tribal consultation policy with the elements in Question #1?

²⁷ FY19 BPAT, p. 15.

²⁸ FY19 BPAT, p. 17.

²⁹ FY19 BPAT, p. 15.

- a. If yes, describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is **no**) How does your agency's tribal consultation policy align with the elements in Question #1?
Please provide the page number(s) within your tribal policy where your agency believes the tribal policy meets the BP's above-listed requirements.

4. (Skip if response to Question #1 is **no**) In FY19, how did your agency ensure competency of staff in using the tribal consultation policy as described in Question #1? Please include a description of "how this policy was communicated to relevant Agency staff in FY 2019" and "provide documentation (sample email, copy of the training on the policy, etc.) that [communication of the policy] occurred in FY 2019."³⁰ *Provide documentation on MAX.gov or link below.*

5. (Skip if response to Question #1 is **no**) Did your agency or a qualified third party assess³¹ the agency's effectiveness in implementing the tribal consultation policy, including the competency of agency staff in the application/use of the policy?

- a. If yes, at what frequency does your agency review its tribal consultation policy and when was it last reviewed? In addition, how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

³⁰ FY19 BPAT, p. 16.

³¹ The agency can choose the frequency of review of the tribal consultation policy, and the agency also decides the definition of qualified third party (FY19 BPAT, p. 16). "If an assessment was not conducted in FY 2019, the Agency will identify when the assessment is scheduled to be conducted" (*ibid*). This evaluation could be internal or external (not including evaluation by OED).

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

Questionnaire B: Agencies with tribal consultation agreements or protocols

1. Does your agency have in place an agency consultation agreement or protocol with Federally Recognized Tribes or an intertribal organization?³²

2. *(Skip if response to Question #1 is yes)* In FY19, has your agency started or continued developing an agency consultation agreement or protocol with Federally Recognized Tribes that:
- Covers one or more ERA process or is programmatic,
 - Includes at least one Federally Recognized tribe or intertribal organization, and
 - “Ensure[s] relevant Agency staff are competent in the Agency’s consultation agreements or protocol to ensure consistent application of the Agency’s consultation agreement or protocol when appropriate”?³³

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* Did your agency develop, update, or utilize the tribal consultation agreement or protocol with one or more Federally Recognized Tribes or intertribal organizations in FY19 that either was programmatic or covered one or more ERA process?

- a. Please confirm that the consultation agreement or protocol was transmitted to Advisory Council on Historic Preservation in accordance with 36 CFR 800.2(c)(2)(ii)(E).³⁴

³² Per the FY19 BPAT (p. 15), “Agencies can utilize or update existing consultation agreements or protocols that meet the intent of this BP. Existing authorities, such as 36 C.F.R. 800.2(c)(2)(ii)(E) for Section 106 reviews under the National Historic Preservation Act, may provide a framework for the establishment of such agreements.”

³³ FY19 BPAT, p. 15.

4. *(Skip if response to Question #1 is no)* In FY19, how did your agency ensure competency of staff in using the tribal consultation agreement or protocol as described in Question #1? Please include a description of “how this policy was communicated to relevant Agency staff in FY 2019” and “provide documentation (sample email, copy of the training on the policy, etc.) that [communication of the policy] occurred in FY 2019.”³⁵ *Provide documentation on MAX.gov or link below.*

5. *(Skip if response to Question #1 is no)* Was the agency’s effectiveness in implementing its tribal consultation agreement or protocol, including the competency of its staff in the tribal consultation agreement or protocol, evaluated?³⁶

- a. If yes, when and how was the effectiveness of your agency’s new or existing/established process assessed?

- b. If yes, what were your agency’s findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

³⁴ FY19 BPAT, p. 15.

³⁵ FY19 BPAT, p. 16.

³⁶ This evaluation could be internal or external (not including evaluation by OED).

BP iv-1

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.”³⁷

Please fill out the relevant questions below based on whether your agency had an initial FAST-41 project CPP in FY19 ([Questionnaire A](#)) or substantive schedule change(s) on FAST-41 project(s) in FY19 ([Questionnaire B](#)). Please note if both circumstances apply, your agency will need to fill out both questionnaires.

- Did your agency have **an initial CPP** for any FAST-41 projects in FY19?
If yes, fill out [Questionnaire A](#).

If no, certify below that your agency had no initial CPPs in FY19. Your agency will receive a “No Opportunity” (N/O) assessment result for Questionnaire A.

Not applicable, DoD is not a lead agency for FPISC projects.

- Did your agency have **any substantive schedule changes**³⁸ for any FAST-41 projects in FY19?
If yes, fill out [Questionnaire B](#).

If no, certify below that your agency had no substantive schedule changes for any FAST-41 projects in FY19. Your agency will receive a “No Opportunity” (N/O) assessment result for Questionnaire B.

³⁷ FY19 BPAT, p. 18.

³⁸ The FY19 BPAT (p.18) defines substantive schedule change as “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.”

Questionnaire A: Agencies with an initial Coordinated Project Plan (CPP) in FY19

Per the FY19 BPAT (p. 18), the detailed schedule needs to include a good faith effort of all steps, including opted-in non-Federal governmental entity requirements, project sponsor activities, and non-opted-in governmental entities' requirements to the maximum extent practicable.

1. For any FAST-41 projects with an initial CPP in FY19, did your agency provide the project sponsor/applicant and relevant governmental entities with information about all steps of all ERA processes by the time the initial CPP or project management plan was completed?³⁹

2. *(Skip if response to Question #1 is yes)* In FY19, did the agency begin or continue developing a method as described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* Was the information provided (as described in Question #1) sufficiently detailed for other entities to make management decisions or conduct resource planning?

4. *(Skip if response to Question #1 is no)* Did your agency communicate the initial detailed schedule described in Question #1 for FAST-41 projects in FY19?

If yes, please also provide supporting records for up to two projects⁴⁰ on MAX.gov or link below.

FAST-41 Project #1:

³⁹ For example, agencies could use the Section 4 of the October 2018 CPP template and share the CPP with relevant governmental entities and the project sponsor/applicant.

⁴⁰ Providing information for up to two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

FAST-41 Project #2:

5. (Skip if response to Question #1 is no) Was the schedule information described in Question #1 and its transmission to relevant entities evaluated⁴¹?

- a. If yes, when and how was the effectiveness assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

Questionnaire B: Agencies with substantive schedule change(s) in FY19

The FY19 BPAT (p. 18) defines substantive schedule change as “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.” Given that the FAST-41 statute does not allow schedule changes to be made within a month of a deadline, OED expects that agencies would provide more than 30 days’ notice to the project sponsor/applicant and affected governmental entities of a substantive schedule change. Updated schedules made in response to substantive schedule changes should include steps beyond those captured in the FAST-41 Implementation Guidance Appendix B. Any alerts made through the Permitting Dashboard do not qualify as communication for the purposes of implementing this BP.

1. For any FAST-41 project with substantive schedule changes in FY19, did your agency directly communicate the changes to the project sponsor/applicant and relevant affected government entities?
If yes, please also provide the communication records on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

⁴¹ OED expects agencies to evaluate (a) timeliness of the distribution of the initial schedule, (b) whether or not the relevant entities received the initial schedule, and (c) the usefulness to other entities from the level of detail of the initial detailed schedule. This evaluation could be internal or external (not including evaluation by OED).

2. (Skip if response to Question #1 is **yes**) In FY19, did your agency begin or continue developing a method to communicate substantive schedule changes as described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline)

3. (Skip if response to Question #1 is **no**) Did your agency ensure that the information as described in Question #1 was provided in sufficient time for other entities to make management decisions/conduct resource planning?

4. (Skip if response to Question #1 is **no**) Did your agency communicate all substantive schedule changes and provide an updated detailed schedule for multiple FAST-41 projects in FY19?

If yes, please also provide the communication records for up to two projects⁴² on MAX.gov or link below. Please note that the BP applies to each substantive schedule change for a project, so provide documentation that the BP was applied each time a substantive schedule change occurred on the project.

FAST-41 Project #1:

FAST-41 Project #2:

5. (Skip if response to Question #1 is **no**) Was the effectiveness of its communication method as described in Question #1 evaluated?⁴³

⁴² Providing information for up to two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁴³ This evaluation could be internal or external (not including evaluation by OED).

- a. If yes, when and how was the effectiveness of your agency's new or existing/established method assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

BP v-1

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.”⁴⁴

1. Does your agency have documented process(es) to address ERA staff changes and ensure continuity of project-specific knowledge and communications? This process should:
 - “[D]efine the points in the ERA process for FAST-41 projects at which your agency will capture and record key information developed at a sufficient level of detail to enable potential future transfer in the event of a staff transition,” and
 - Describe your how your agency “updates other entities on agency personnel changes for covered projects.”⁴⁵

*If **yes**, please also provide the process document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

DoD Siting Clearinghouse maintains both government and contractor support to ensure that personnel changes do not affect schedules

2. *(Skip if response to Question #1 is **yes**)* In FY19, did your agency begin or continue developing a process as described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is **no**)* How does the process described in Question #1 enable potential future transfer of project-specific knowledge and communications in the event of a staff transition? Briefly summarize the ERA process steps captured and describe how staff changes are communicated to

⁴⁴ FY19 BPAT, p. 21.

⁴⁵ FY19 BPAT, p. 22.

applicants/project sponsors and other affected governmental entities participating in project review.

4. (Skip if response to Question #1 is **no**) Did your agency apply the process as described in Question #1 for one or more FAST-41 projects?

- c. If yes, please upload supporting record(s)⁴⁶ of implementing the process for up to two⁴⁷ FAST-41 covered project ERAs. Also, please describe whether or not any substantial schedule changes occurred as a result of the staff transition and if so how ERA processes were impacted.

FAST-41 ERA #1:

FAST-41 ERA #2:

- d. If no, certify below that you had no opportunity to apply the process in FY19.⁴⁸

5. (Skip if response to Question #1 is **no**) Was the implementation of the process described in Question #1 evaluated?⁴⁹

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

⁴⁶ This should include the record that project sponsors and other FAST-41 participants were informed of staff changes for covered projects in FY 2019 in a timely manner and record of implementing the project continuity process (FY19 BPAT, p. 22).

⁴⁷ Providing information for up to two ERAs may demonstrate further progress in implementing the BP's intent to the OED assessors. Please note the two ERA examples could be for the same or different projects.

⁴⁸ Per the FY19 BPAT (p. 22-23), if no staff changes or substantive schedule changes occurred your agency can receive a **"No Opportunity" (N/O)** assessment result for implementing this part of the BP in FY19. Your agency can alternatively choose to demonstrate further progress in implementing the BP by demonstrating the application of the BP in other FYs.

⁴⁹ This evaluation could be internal or external (not including evaluation by OED).

b. If yes, what were your agency's findings, and were potential improvements identified?

c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

BP v-2

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, to reduce duplicative actions (e.g., related to data collection and analysis).

Joint processes could 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.’⁵⁰

1. Does your agency have existing or established procedure(s)/process(es) in place for:

- “Ensuring existing joint processes/programmatic approaches to reduce duplicative actions have been utilized during the past FY, when appropriate,”
- Identifying new opportunities when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs,”
- “Creating new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists,” and
- “Utilizing the joint processes/programmatic approaches.”⁵¹

The Defense Mission Compatibility Evaluation process leverages the Federal aviation Administration (FAA) Part 77 process to leverage joint approaches..

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing a process/procedure as described in Question #1?

a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* For the below items regarding the procedure(s)/process(es) as described in Question #1, provide documentation⁵²

⁵⁰ FY19 BPAT, p. 21.

⁵¹ FY19 BPAT, p. 24.

(as appropriate) to demonstrate progress in implementing the BP⁵³ and describe (as applicable) how your agency has:

- a. Ensured that existing joint processes and programmatic approaches have been utilized during the past FY to reduce duplicative actions.

(Skip if your agency had no existing joint processes/programmatic approaches as of January 2019). For agencies with existing joint processes/programmatic approaches to reduce duplicative actions as of January 2019 that are applicable to FAST-41 project types, provide a list of these existing joint processes/programmatic approaches⁵⁴.

- b. Identified new opportunities for establishing joint processes/procedures when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs.

- c. Created new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists.

- d. Utilized the joint processes/programmatic approaches.

- e. *(Skip if your agency had existing joint processes/programmatic approaches as of January 2019).* If your agency had no existing joint processes and/or programmatic approaches to reduce duplicative actions, as of January 2019, that are applicable to FAST-41 project types,

⁵² Documentation could include procedures, process documents, or other types of process documents.

⁵³ Providing documentation on MAX.gov or as web links may replace written descriptions as long as page numbers are referenced for relevant sections.

⁵⁴ Existing joint processes may be listed in the textbox provided, at web link(s) entered in the textbox that goes directly to the list, or in accompanying document(s) uploaded to the BP v-2 MAX.gov with relevant page numbers provided in the textbox.

please certify below in order to qualify for a “**No Opportunity**” (N/O) assessment result for Questions #3a and #3d.

4. (Skip if response to Question #1 is **no**) For the questions below, provide information⁵⁵ on how your agency applied the procedure/process for developing and using joint processes/programmatic approaches to reduce duplicative actions in FY19 as described in Question #1?

a. Did your agency have an opportunity to utilize or apply an *existing* joint process/programmatic approach to reduce duplicative actions in FY19? If yes, provide at least one example.

If no, please certify below that your agency had no opportunity to apply the agency’s *existing* (as of January 2019) joint processes/procedures to qualify for a “**No Opportunity**” (N/O) assessment result for Question #4a.

b. Provide information on an opportunity your agency explored in FY19⁵⁶ to create a *new* joint process/programmatic approach to reduce duplicative actions, and any decisions made about the viability of such an opportunity.

5. (Skip if response to Question #1 is **no**) Was the implementation of your agency’s procedure/process as described in Question #1 evaluated?⁵⁷

a. If yes, when and how was the effectiveness of your agency’s new or existing/established process assessed?

⁵⁵ Examples may be described in the textboxes provided, at a web link(s) entered in the textbox that goes directly to the relevant information, or in accompanying document(s) uploaded to the BPv-2 MAX.gov page with relevant page numbers provided in the textbox.

⁵⁶ For FY19, the expectation for this BP is that all agencies will explore opportunities to create new joint processes/programmatic approaches to reduce duplicative actions.

⁵⁷ This evaluation could be internal or external (not including evaluation by OED).

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- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

BP vi-1

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.”⁵⁸

Per the FY19 BPAT (p. 26), in FY19 agencies are to “establish a library⁵⁹ and begin populating it with new or existing tools and other relevant information, or conduct maintenance on an existing library, making improvements as necessary.”⁶⁰

1. Does your agency have a consolidated resource library that is publicly available and includes, but is not limited to, the items listed below to provide transparency to infrastructure ERA processes for all agencies and the public:
 - a. Instructions for application processes/consultation processes,
 - b. Information on the agency’s decision-making criteria for ERA processes, and
 - c. Information on the types of analysis⁶¹ the agency conducts on project sponsor/applicant-provided information?

If yes, please also provide a link below to the consolidated resource library.

Complete - Geospatial Information for U.S. Military Installations, Ranges, and Training Areas https://www.acq.osd.mil/eie/BSI/BEI_DISDI.html

2. *(Skip if response to Question #1 is yes)* Has your agency begun or continued developing the consolidated resource library as described in Question #1?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* Is there information you could legally share that you have not yet that would increase the transparency of the ERA process(es)? In your response, please describe briefly how your agency evaluated if there was

⁵⁸ FY19 BPAT, p. 26.

⁵⁹ “Existing agency policy and approaches on sensitive or proprietary information remain in effect for all information sharing” (*ibid*).

⁶⁰ For example, agencies could chose to put information from other BPs into its resource library, such as the ERA resource documents (as described in BP ii-1), information about their pre-application/pre-official review processes (as described in BP i-2), and/or information about joint processes and procedures (as described in BP v-2).

⁶¹ Each agency can chose to share at the project or review type level.

additional information you could legally provide that would increase the transparency of the items listed in Questions #1b and #1c.⁶²

4. *(Skip if response to Question #1 is no)* How did your agency increase transparency of the consolidated resource library to the public? For example, how did your agency make stakeholders aware of the resource library and structure the resource library to increase ease of finding information?

5. *(Skip if response to Question #1 is no)* Was the effectiveness of the consolidated resource library for increasing transparency of the agency's ERA processes as described in Question #1 evaluated?⁶³

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

⁶² OED will evaluate the information provided in the consolidated resource library to determine if it increases the transparency and predictability of the ERA processes as described in Question #1.

⁶³ This evaluation could be internal or external (not including evaluation by OED).

BP vii-1

BP vii-1: “Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials⁶⁴. The training materials 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, pre-application).”⁶⁵

Per the FY19 BPAT (p. 29), no agency can receive a “No Opportunity” (N/O) assessment result for this BP, as each agency can train either on FAST-41 program implementation or on implementation of one or more FY19 BPs.

Providing information for up to two trainings may demonstrate to the OED assessors of further progress in implementing the BP’s intent.

Per the FY19 BPAT (p. 28), an agency can choose to implement this BP using online or in-person training. Recognizing the difference between live⁶⁶ trainings and online trainings, this questionnaire asks agencies to describe live training in Question #4a (but not #4b) and online training in Question #4b (but not #4a).

1. In FY19, did your agency have an established or existing training regarding either implementation of the FAST-41 program or of one or more of the Permitting Council’s FY19 BPs for Federal, State, and tribal governments and local permitting officials?⁶⁷

Complete, DENIX and siting clearinghouse websites
<https://www.denix.osd.mil/fpisc/home/>
<https://www.acq.osd.mil/dodsc/fast41projects.html>

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing training as described in Question #1?

⁶⁴ Per the FY19 BPAT (p. 28), “Agencies will implement this BP by providing training specifically related to implementing FAST-41 or providing training specifically related to implementing one or more FY 2019 BPs that improve the ERA process for infrastructure projects.”

⁶⁵ FY19 BPAT, p. 28.

⁶⁶ Live training involves an instructor and the ability of the audience to ask questions (whether virtual or in-person).

⁶⁷ The BP’s intent is that training materials are made available to Federal, State, and tribal governments and local permitting officials, include the agency informing these groups that the training materials exist and where they are available. Each agency determines the appropriate audience of its training.

- a. If yes, please provide some details below about where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* Please describe how your agency determined the appropriate learning objectives and intended audiences for up to two training(s) described in Question #1⁶⁸.

FY19 Training #1:

FY19 Training #2:

4. *(Skip if response to Question #1 is no)* In FY19, did your agency hold one or more⁶⁹ live trainings or make available online trainings as described in Question #1?⁷⁰

- a. *(Skip if your agency chose to implement BP using online training)*. If yes, please describe how each training⁷¹ was made available to the intended audience. Also, provide a record on MAX.gov of the execution of the live training.

FY19 Live Training #1:

FY19 Live Training #2:

⁶⁸ An agency that conducts live training would only need to provide the same live training program multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the intended audience and learning objectives of up to two discrete times/locations that the live training was conducted.

⁶⁹ Providing information for two trainings may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁷⁰ OED expects agencies to inform the intended training audience of the available training as part of "making training materials" available.

⁷¹ An agency that conducts live training would only need to provide the same training multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the two times/locations that the live training was conducted.

- b. *(Skip if your agency chose to implement BP using live training)*. If yes, please describe how each training was made available to the intended audience. Also, provide a functional link to the online training below.

FY19 Online Training #1:

FY19 Online Training #2:

- 5. *(Skip if response to Question #1 is no)* Was the implementation of the training described in Question #1 evaluated?⁷²

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

⁷² This evaluation could be internal or external (not including evaluation by OED).

BP viii-1

BP viii-1: “Identify measures planned or taken by the Agency in the outreach section of the CPP to increase the probability of reaching the stakeholders for stakeholder engagement (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).”⁷³

It is a statutory requirement to Include the plan and schedule of outreach in the CPP, so the lead agency’s most recent CPP will be used as a data source in addition to the questions and provided documents outlined below.

Was your agency legally required to do any public outreach for its environmental reviews and authorizations (ERAs) for FAST-41 covered projects in FY19?

*If **yes**, fill out questionnaire below.*

*If **no**, certify below that your agency had no legal requirements for outreach on FAST-41 projects in FY19. Your agency will receive a “**No Opportunity**” (N/O) assessment result for this BP and does not need to complete the questionnaire.*

Not applicable, DoD is not a lead agency for FPISC projects.

1. Did your agency utilize multiple methods of stakeholder engagement for FAST-41 covered projects?

2. *(Skip if response to question #1 is **yes**)* Did your agency begin or continue planning for implementing multiple methods of stakeholder engagement for each time stakeholder engagement is required for its FAST-41 covered project(s)?

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

⁷³ FY19 BPAT, p. 29.

3. (Skip if response to question #1 is **no**) Do one or more⁷⁴ of your agency's most recent project CPPs describe how your agency planned to conduct multiple outreach methods each time the agency needed to conduct stakeholder outreach for those projects during FY19?

- a. If yes, please indicate the project(s) that your agency prefers OED review.

FAST-41 CPP for Project #1:

FAST-41 CPP for Project #2:

4. (Skip if response to question #1 is **no**) For each applicable project, please briefly describe⁷⁵ the multiple methods of stakeholder engagement and provide a record⁷⁶ of outreach to the public on MAX.gov.

FAST-41 Project #1:

FAST-41 Project #2:

5. (Skip if response to question #1 is **no**) Were the multiple methods of stakeholder outreach evaluated for effectiveness in increasing the probability of reaching stakeholders?⁷⁷

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

⁷⁴ Providing information for two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁷⁵ For example, what types were used, to which part of the ERA processes they were employed, who the desired audience was, and when the outreach occurred. To identify the engagement methods, your agency may provide a description, refer OED to a project's CPP with page numbers, or provide a link to publically available document and reference the applicable page numbers.

⁷⁶ A record of the outreach to the public could be meeting agenda or a sample email (FY19 BPAT, p. 30).

⁷⁷ This evaluation could be internal or external (not including evaluation by OED).

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- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

BP viii-2

To meet the intent of fiscal year 2019 (FY19) best practice (BP) viii-2, each agency will present at a Working Group Meeting "on past and planned efforts to improve the ERA processes and performance metrics by Agencies sharing lessons learned" (FY19 Best Practices Assessment Tool, (BPAT) page 30). During the Working Group Meeting presentations, each agency should present on lessons learned or improvements/innovations it made to improve the efficiency, transparency, predictability, and/or accountability of any environmental review or authorization (ERA) process(es) that could be applicable to infrastructure projects. While an agency could present on an innovative approach for meeting one or more FY19 BPs, the BP viii-2 presentation is an opportunity for agencies to present about work planned or implemented to improve the ERA processes for infrastructure projects that is beyond the FAST-41 BPs, projects in FY19, and/or even FAST-41 projects. An agency could present about a programmatic solution or a program (FY19 BPAT, page 31) or could discuss reducing or removing a component of an ERA process that was determined to be no longer beneficial.

For the FY19 ARC, FPISC-OED will assess if each agency's Working Group Meeting presentation in FY19 provided sufficient details of the lesson learned/problem solved and benefits of the solution so that other agencies can consider how adopting the innovation or process improvement might benefit them. To facilitate information sharing, agencies should upload any presentation materials to their BP viii-2 pages. Per the FY19 BPAT (page 30), there will be no data call/questionnaire for BP viii-2.

Agencies should sign up for a Working Group presentation date on MAX.gov:
<https://community.max.gov/x/fjl2Yw>.

DoD briefed FPISC Workgroup on September 24, 2019



SUSTAINMENT

Department of Defense

OASD (Sustainment)

Overview and Lessons Learned 2019 for the Federal Permitting Improvement Steering Council

Terry Bowers

Office of the Deputy Assistant Secretary of
Defense (Environment)

Sept 24, 2019



SUSTAINMENT

Overview

OASD (Sustainment)

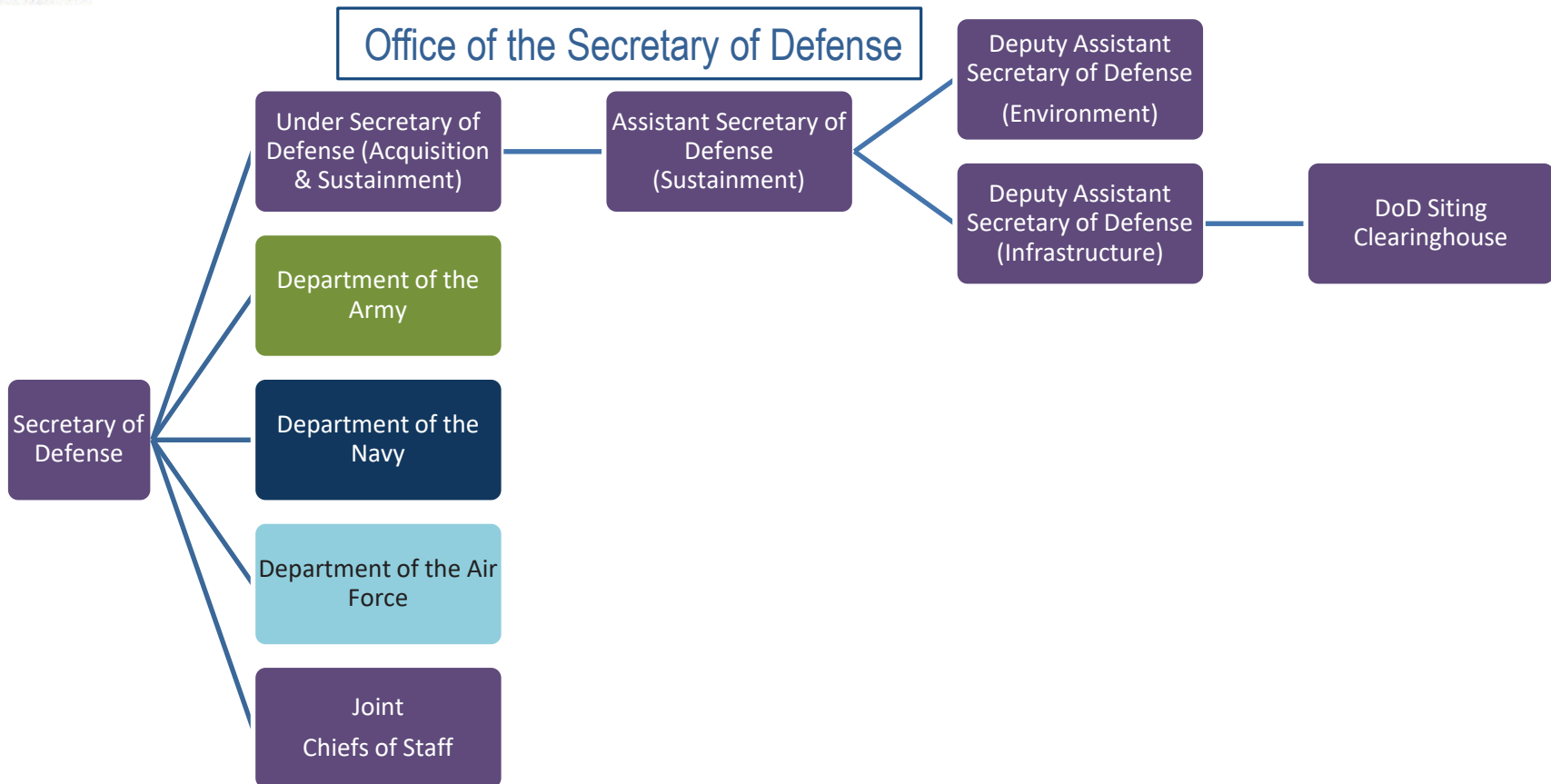
- Organizational construct - Who we are
- DoD Reviews and Authorizations
 - Defense Mission Compatibility Evaluation Process
 - How the process works
 - What DoD looks for in permitting dashboard projects
 - Right of Ways/Easements
- Lessons learned in public infrastructure permitting



SUSTAINMENT

DoD Organization

OASD (Sustainment)



- FPISC Council Member Mr. Pete Potochney, Principal Deputy, ASD (Sustainment)
- CERPO Ms. Maureen Sullivan, DASD(Environment)
- FPISC Issues Staff Contact Mr. Terry Bowers, Office of the DASD(Environment)



SUSTAINMENT

DoD Reviews and Authorizations

OASD (Sustainment)

- **Defense Mission Compatibility Evaluation Process**
 - 32 CFR Part 211
 - Energy development notification
 - <https://www.acq.osd.mil/dodsc/contact/dod-review-process.html>
- **Real estate right of way/ easement on DoD property**



SUSTAINMENT

Military Aviation and Installation Assurance Siting Clearinghouse

OASD (Sustainment)

- **DoD Energy Siting Clearinghouse established in the FY2011 National Defense Authorization Act**
 - Mission compatibility reviews of energy projects
- **Renamed in FY18 NDAA**
 - Moved to Title 10
 - Established procedures for officially and informally engaging States
 - Primary purpose is to protect military missions from incompatible development
- **Executive Director, Mr. Ron Tickle, SES, Office of the Deputy Assistant Secretary of Defense (Infrastructure)**



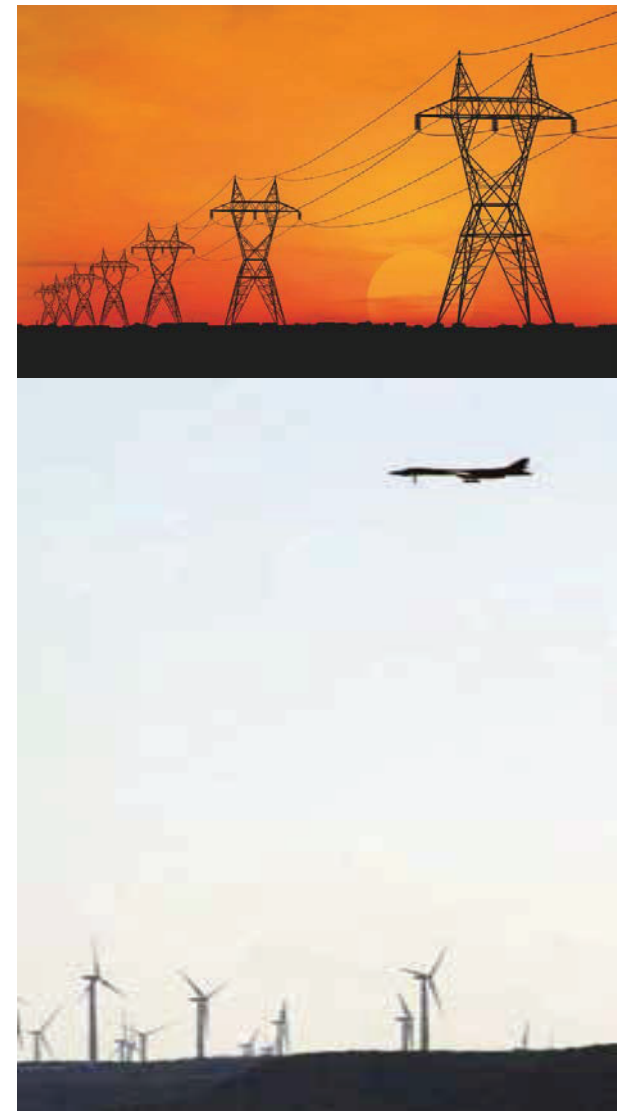


SUSTAINMENT

Typical Energy Siting Concerns

OASD (Sustainment)

- Radar/Wind Turbine Interference
 - Military and FAA Air Traffic Control
 - DoD unique Radars
 - Weather Radar
- Low-level Flight Obstruction
- Electromagnetic Interference and Physical Obstruction from Electrical Power Lines
- Interference from Solar Energy Development
- Lighting
- Steam/plume generation
- Foreign investment/proximity/service providers
- Offshore wind





SUSTAINMENT

Mission Compatibility Evaluation Process

OASD (Sustainment)

- Project Received from FAA
- Review by Military Departments. If determines adverse impact, then:
 - Issues developer a Notice of Presumed Risk and requests mitigation discussion
 - Notifies Governor of state and request comments
- SCH establishes a Mitigation Response Team (MRT) and designates a Military Department as lead
- MRT tasked to negotiate with project proponent to determine if impacts can be mitigated or eliminated
- MRT typically ends in one of four ways:
 - Impacts determined to be not significant and cleared with FAA
 - DoD, developer and Military Department sign a mitigation agreement
 - DoD Objects: DEPSECDEF to Secretary of Transportation
 - Developer chooses not to pursue the project



SUSTAINMENT

DoD Assessment Summary

OASD (Sustainment)

- Over 4000 wind farms evaluated from CY13-CY18
- 25 Mitigation Agreements Signed
 - Agreement Does not Mean “Zero Impact” to a mission
- Typically, approximately 50 Mitigation Response Teams ongoing at any time
- One formal objection from DoD
 - DoD’s “objection” is to Secretary of Transportation (FAA)
 - Developer did halt the project
- Successfully utilized state siting processes to limit two projects where significant impacts to national security were expected
- As of 1 June, over 130 wind energy related state legislative items introduced in CY 2019 in 40 states



SUSTAINMENT

DoD Lessons Learned – FPISC/FAST-41

OASD (Sustainment)

- DoD has no public infrastructure projects
 - Not lead agency on any effort
- Single legacy project – DoD is a cooperating agency
 - Boardman to Hemingway Transmission Line
 - DoD land was not part of original project scope
 - Navy Range at Boardman included later in the project to assess whether an easement could complete project
- Lessons Learned:
 - Regular communications at project level help avoid surprises
 - Dashboard useful but ensure updated data is approved & published
 - Apply CPP and communications to non-infrastructure projects

Department of Energy Responses for The FY 2019 Annual Report to Congress

In accordance with guidance issued by Federal Permitting Improvement Steering Council – Office of the Executive Director (FPISC-OED), the U.S. Department of Energy (DOE) has prepared responses for Best Practices (BPs) that are directly applicable to DOE’s relevant work in FY 2019. During the fiscal year, DOE’s only covered projects were LNG export facilities, and DOE’s NEPA participation (in all cases, as a cooperating agency in FERC-led reviews) was led by its Office of Fossil Energy (FE) which carries out regulatory responsibilities over imports and exports of natural gas under the Natural Gas Act.

For FY 2019, there were two BPs that were directly relevant to DOE’s NEPA work for covered projects. The others either were applicable only to lead agencies, or are not relevant to DOE’s work in these reviews for the most recent fiscal year.

DOE’s responses for each of the two BPs that were relevant in the most recent fiscal year are provided below.

BP Category 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.

DOE is providing an alternative approach to address this BP, rather than describing the existence or development of a “documented” process for FY 2019. The headings below are taken from FPISC-OED’s Alternative Approach Template.

Description of alternative approach and actions taken in FY 2019 which meet the intent of the BP.

This approach was pre-existing in FE, and specifically in the Office of Regulation, Analysis, and Engagement. It was recently implemented in late FY 2018 when a staff member left for a 9-month educational rotation, and again upon his return during FY 2019. The key elements of the approach, and a description of how it was implemented in FY 2018 – FY 2019, are:

- Provide personnel for continuity aside from replacement personnel. A Supervisor / Office Director in DOE/FE is listed as a contact on the FAST-41 / Major Infrastructure Projects Dashboard, and can provide continuity in the event of turnover of other staff.
- Engage replacement personnel. In the FY 2018 changeover, an additional staff member was engaged to carry out NEPA duties on behalf of FE. He met with the departing FE NEPA staff member and received a briefing on the duties, as well as a tour of relevant documentation.
- Notifications of Change. In FY 2018, the departing FE NEPA staff member notified every relevant FERC project manager of the transition and provided contact information for the new FE NEPA staff member.
- Network File / Document Location. Files are retained in a shared network drive in a location known to all relevant staff, so documentation is always accessible.
- Re-integration. In FY 2019, upon the departed FE NEPA staff member’s return, he was re-integrated into the process through communications with FERC project managers and other relevant parties. (Both FE NEPA staff members remain directly involved, further allowing easier back-up should either staff member become unavailable.)

Describe why the alternative approach is needed and how the approach meets the intent of the BP(s). What are the unique attributes of your alternative approach that is not in the FY 2019 BPAT?

DOE follows an existing process, which has worked successfully in completing NEPA compliance responsibilities for LNG export decisions, to meet the intent of this BP. Because DOE is a cooperating agency in the review of LNG terminals (a connected action) and may adopt FERC's NEPA documents, as appropriate, the demand on DOE staff resources is reduced. Only limited, targeted staff change activities are required to assure continuity. It is unnecessary to create a more formal, documented process. The current approach meets the intent of the BP because it ensures unbroken communication between DOE and other agencies in NEPA reviews and seamless record-keeping for relevant documentation.

Agency's expected or observed benefits to the ERA process from implementing the agency's proposed alternative approach to meet the intent of the FY 2019 BP.

DOE/FE benefitted from efficient use of time. We used an existing process and met all requirements for smooth and efficient personnel transitions.

What is your agency's feedback mechanism to ensure your alternative approach continually improves the ERA process? What (if any) future improvements to the alternative approach were identified and/or implemented in FY 2019?

Because the relevant DOE/FE team for FY 2019 activities is small, the feedback for this process is virtually automatic – any missed transition opportunities would be noticed and rectified person-to-person. The process has worked very well. While we will always be alert for opportunities to improve it, there are no plans to change the process at present.

BP Category viii) 2. Identify and share information on past and planned efforts to improve the ERA process and performance metrics by Agencies sharing lessons learned during Interagency Working Group meetings and success stories during Permitting Council councilmember meetings.

DOE/FE shared lessons learned during a meeting / conference call of the Interagency Working Group on July 30, 2019. DOE explained the nature of DOE's role in FERC-led environmental reviews of LNG export facilities, and shared lessons learned. DOE enhanced communication between DOE's Office of Fossil Energy and the Office of Electricity, which houses DOE's CERPO and FAST-41 / One Federal Decision staff. FE took a larger role because it was responsible for all relevant projects at this time, and the two involved DOE offices have communicated regularly and well. DOE also discussed the staff change activities related above. During that meeting, DOE also shared the proactive, increased interagency communication on all aspects (including many non-NEPA aspects) of LNG projects that it devised and implemented in 2016 and have kept ongoing.

Submitted October 16, 2019, by the designee of DOE Councilmember Bruce Walker,
Amy Sweeney, of DOE's Office of Fossil Energy:

Amy R. Sweeney
Director, Office of Regulation, Analysis, & Engagement

FY19 ARC Stage Assessment Indicator Questions: BP vii-1

DOT Consolidated Responses

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

BP vii-1: “Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials³. The training materials 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, pre-application).”⁴

Per the FY19 BPAT (p. 29), no agency can receive a “No Opportunity” (N/O) assessment result for this BP, as each agency can train either on FAST-41 program implementation or on implementation of one or more FY19 BPs.

Providing information for up to two trainings may demonstrate to the OED assessors of further progress in implementing the BP’s intent.

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ Per the FY19 BPAT (p. 28), “Agencies will implement this BP by providing training specifically related to implementing FAST-41 or providing training specifically related to implementing one or more FY 2019 BPs that improve the ERA process for infrastructure projects.”

⁴ FY19 BPAT, p. 28.

Per the FY19 BPAT (p. 28), an agency can choose to implement this BP using online or in-person training. Recognizing the difference between live⁵ trainings and online trainings, this questionnaire asks agencies to describe live training in Question #4a (but not #4b) and online training in Question #4b (but not #4a).

1. In FY19, did your agency have an established or existing training regarding either implementation of the FAST-41 program or of one or more of the Permitting Council's FY19 BPs for Federal, State, and tribal governments and local permitting officials?⁶

The Department of Transportation (DOT) does not provide training specifically on the implementation of FAST 41 program since it does not apply to our projects, however DOT does provide training related to 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, pre-application). Under FAST 41, as codified at 42 U.S.C. § 4370m(6)(B)(i), any project subject to section 139 of Title 23 is excluded. Section 139 applies to all projects for which DOT is the lead agency and "an environmental impact statement is prepared under [NEPA]." 23 U.S.C. § 139(b)(1). Section 139 may also "be applied, to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to [NEPA]." Id.

Below are the various examples from DOT Operating Administrations (OAs):

Federal Highway Administration (FHWA)- Provides training on environmental compliance when requested, through the National Highway Institute. FHWA has provided training on NEPA implementation, Section 4(f), Environmental Justice, Public Involvement, among other training as requested by State and Federal agencies. FHWA has also integrated emerging topics, such as the application of the One Federal Decision process and the collaboration process between agencies, into conference presentations, quarterly environmental discipline webinars, and workshops.

Federal Railroad Administration (FRA)- The FRA provides information to project sponsors, stakeholders and prospective grantees through its website.⁷ FRA also posts and regularly updates its public website, internal and external resource weblinks, and has produced webinars on the Section 106 Program Comment for Rail Rights-of Way, and project delivery. Webinars and updated regulations are advertised to stakeholders through emails and press releases. Public attendance to the live webinars has ranged from 200 to

⁵ Live training involves an instructor and the ability of the audience to ask questions (whether virtual or in-person).

⁶ The BP's intent is that training materials are made available to Federal, State, and tribal governments and local permitting officials, include the agency informing these groups that the training materials exist and where they are available. Each agency determines the appropriate audience of its training.

⁷ FRA resources can be found at: <https://www.fra.dot.gov/environment>. Additional resources, including Webinars, are located in FRA's eLibrary, which includes regulations, legislation, trainings, reports and technical manuals that provide beneficial information and tools to internal and external stakeholders.

over 400 participants. FRA has also hosted internal courses on Section 4(f) of the Department of Transportation Act, Environmental Justice, Rail-specific Noise and Vibration to FRA project management and environmental staff from FRA, FTA and FHWA to ensure consistent implementation of best practices.

DOT strives to improve upon its trainings and best practices, based on lessons learned through its programs. Currently, FRA is developing training related to implementing best practices from E.O. 13807, including page limits, and expedited and coordinated environmental reviews for FRA staff, to ensure consistent document preparation among FRA stakeholders. External course development includes webinars on facilitating the NEPA process, and NEPA classes of action for FRA. These free webinars are open to the public and internal staff. Webinar recordings are retained on FRA's public website and housed in FRA's eLibrary.

Federal Transit Administration (FTA) - FTA uses the "environmental" section of its public website (<https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/fta-environmental-impact-and-related-procedures>) to disseminate useful resources (e.g., environmental SOPs, guidance documents, Q&As, rules) and delivers Managing the Environmental Review Process seminar, in conjunction with the National Transit Institute, for project sponsors and other stakeholders. FTA headquarters staff also conducts webinars when its environmental regulations change in a significant way and save the recordings on its public website. To advertise the availability of new resources or training, FTA sends GovDelivery notices to certain GovDelivery lists, targeting the groups who would be most interested in the news and has found it to be a useful resource. In FY19 FTA established a Regional Environmental Training Program for FTA staff to ensure consistent implementation of best practices.

FAA- FAA did develop training to improve the ERA process. The FAA considers the ERA process to include the streamlining requirements in E.O. 13807.

2. (Skip if response to Question #1 is yes) In FY19, did your agency begin or continue developing training as described in Question #1?

DOT is consistently development trainings described in Question #1. DOT strives to improve upon its trainings and best practices, based on lessons learned through its programs. Currently, FRA is developing training related to NEPA Assignment.

- a. If yes, please provide some details below about where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is **no**) Please describe how your agency determined the appropriate learning objectives and intended audiences for up to two training(s) described in Question #1⁸.

FY19 Training #1:

FTA- The Managing the Environmental Review Process (MERP) course is continually updated with the Best Practices for streamlining and efficiency available for use at FTA. The FTA regional offices coordinate with project sponsors and other stakeholders, along with National Transit Institute, to ensure that stakeholders are aware of the availability of courses. Due to limitation on funds and FTEs, resources are distributed to Regions on a rotational basis with preference to those regions that are most in need.

FAA- The agency considered the requirements in E.O. 13807 (One Federal Decision and accountability requirements), the Memorandum of Understanding and the FAA's NEPA process, using these documents and knowledge of the FAA's NEPA process the agency identified the target audiences for training and the training objectives. For the training provided to external stakeholders, the training objectives focused on the purpose/policy considerations for E.O. 13807; One Federal Decision Framework – what it is and when it is applicable to FAA infrastructure projects; the Performance Accountability System; and the benefits of this streamlining effort to our external partners

FY19 Training #2:

FTA- The 2019 Regional Environmental Training learning objectives were to enhance consistency and efficiency in the environmental review process across FTA using FTA's Standard Operating Procedures (SOPs). The SOPs were updated to reflect the most up to date Best Practices for streamlining and efficient project review in March of 2019. This training will be completed in all ten of FTAs regional offices by March 31, 2020.

4. (Skip if response to Question #1 is **no**) In FY19, did your agency hold one or more⁹ live trainings or make available online trainings as described in Question #1?¹⁰

Yes, DOT held multiple live trainings in FY19.

⁸ An agency that conducts live training would only need to provide the same live training program multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the intended audience and learning objectives of up to two discrete times/locations that the live training was conducted.

⁹ Providing information for two trainings may demonstrate further progress in implementing the BP's intent to the OED assessors.

¹⁰ OED expects agencies to inform the intended training audience of the available training as part of "making training materials" available.

- a. *(Skip if your agency chose to implement BP using online training).* If yes, please describe how each training¹¹ was made available to the intended audience. Also, provide a record on MAX.gov of the execution of the live training.

FY19 Live Training #1:

FTA- Prepared and delivered the following in-person training in FY 2019:

Managing the Environmental Review Process (MERP)- Presented by FTA Headquarters staff, along with NTI, delivered to FTA Regional staff and stakeholders. Geared toward stakeholder NEPA implementation and use of best practices.

- Philadelphia, PA (Location DVRPC) December 18 & 19, 2018
- Seattle, WA (Location Sound Transit) March 26 & 27, 2019

FAA- The FAA provided live training on One Federal Decision during the FAA's Environmental Forum, May 14, 2019, 12:30 pm – 2:15 pm.

FY19 Live Training #2:

FTA- Regional Environmental Training Program 2019 - FTA Headquarters staff delivered to FTA Regional Staff. Geared to highlight the Standard Operating Procedures which focus on best practices.

- July 2019 Kansas City, MO, 07/23/19-07/24/19
- Fort Worth, TX, 07/23/19-07/24/19
- Boston, MA, 07/30/19-07/31/19
- San Francisco, CA, 09/12/19-09/13/19 (to be delivered)

NTI Courses given in-person to FTA staff and Stakeholders under FTA contract

Introduction to transportation conformity (focused on streamlining Best Practices for transportation conformity)

- Cleveland, OH (Northeast Ohio Areawide Coordinating Agency) 12/11/18-12/12/18

¹¹ An agency that conducts live training would only need to provide the same training multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the two times/locations that the live training was conducted.

- St Louis, MO (East-West Gateway Council of Governments) 02/20/19-02/22/19
- Oakland, CA (Caltrans District 4) 03/25/19-03/27/19
- San Antonio, TX (VIA Metro Center) 03/12/19-03/14/19

Introduction to Environmental Justice (focused on streamlining Best Practices for EJ compliance)

- New York, NY (MTA Headquarters) 11/27/18–11/28/18
- Kansas City, MO (Mid-America Regional Counsel) 12/19/18-12/20/18
- Phoenix, AZ (Valley Metro) 01/29/19-01/30/19
- Portland, OR (Metro Regional Center) 05/06/19-05/07/19
- Atlanta, GA (Atlanta Beltline) 06/20/19-06/21/19

Advanced Environmental Justice (focused on streamlining Best Practices for EJ compliance)

- Chicago, IL (Chicago Transit Authority) 06/11/19-06/12/19
- Fort Worth, TX (Trinity Metro) 06/11/19-06/12/19

Transit Noise and Vibration Impact Assessment (focused on Noise and Vibration requirements and Best Practices)

- Chicago, IL (Chicago Transit Authority) 02/19/19-02/21/19

New York, NY (New York City Transit) 09/10/19-09/12/19

FAA- The FAA provided live training on One Federal Decision to management on December 18, 2018.

- b. *(Skip if your agency chose to implement BP using live training).* If yes, please describe how each training was made available to the intended audience. Also, provide a functional link to the online training below.

FY19 Online Training #1:

FTA- Webinar on Rail ROW Program Comment - Program Comment to Exempt Consideration of Effects to Rail Properties with Rail Rights-of-Way FTA delivered

and recorded a webinar on the Rail ROW program comment (<https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/rail-row-program-comment-program-comment-exempt>) on October 25, 2018

FY19 Online Training #2:

FHWA- FHWA delivers various web-based trainings through the National Highway Institute (NHI). ***Introduction to NEPA and Transportation Decision-making*** is one of many examples of online trainings available. See link: https://www.nhi.fhwa.dot.gov/course-search?tab=0&key=NEPA&sf=0&course_no=142052

5. (Skip if response to Question #1 is **no**) Was the implementation of the training described in Question #1 evaluated?¹²

Yes. It is standard practice for all of DOT trainings, whether in-person or webinar, to have some form of evaluation.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

FTA - Hard copy written multiple choice and written description surveys were given to the participants for both MERP courses. The 2019 Regional Environmental Training surveys have not yet all been distributed and received, and this will occur electronically through multiple choice and written description surveys.

FAA- For the training completed at the Environmental Forum, feedback questionnaires was provided to attendees.

- b. If yes, what were your agency's findings, and were potential improvements identified?

FTA- In general, the MERP hard copy (and verbal) assessments were very positive. Potential improvements were identified. One of the most common requested improvements was a longer training event, as it is difficult to cover all materials in a 2-day training. Another improvement is to more specifically tailor the training the education level of the participants.

¹² This evaluation could be internal or external (not including evaluation by OED).

FAA- Generally, the attendees thought the training was helpful and potential improvements to the training have been identified.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

FTA- FTA continues to find new ways to assess attendee's prior knowledge of subject matters prior to the trainings. In years past FTA had provided recorded webinars on specific NEPA topics to prime the attendees before the training so that it could focus on more substantive issues during the training. FTA is in the process of developing an updated NEPA introductory webinar for this purpose.

FAA- Going forward, FAA is looking at focusing training on certain aspects of the FAA's One Federal Decision process, ie like the role of the Dashboard and dashboard inputs.

FY19 ARC Stage Assessment Indicator Questions: BP v-2

DOT Consolidated Responses

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

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, to reduce duplicative actions (e.g., related to data collection and analysis).

Joint processes could 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.’”³

1. Does your agency have existing or established procedure(s)/process(es) in place for:
 - “Ensuring existing joint processes/programmatic approaches to reduce duplicative actions have been utilized during the past FY, when appropriate,”
 - Identifying new opportunities when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs,”

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 21.

- “Creating new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists,” and
- “Utilizing the joint processes/programmatic approaches.”⁴

Yes, DOT has many established procedures related to all the bullet points in Question #1.

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing a process/procedure as described in Question #1?

Federal Aviation Administration (FAA)- FAA has begun the process of reviewing and identifying processes to put in place to avoid redundancies in the ERA process.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

FAA- The FAA is in initial development of these processes.

3. *(Skip if response to Question #1 is no)* For the below items regarding the procedure(s)/process(es) as described in Question #1, provide documentation⁵ (as appropriate) to demonstrate progress in implementing the BP⁶ and describe (as applicable) how your agency has:

- a. Ensured that existing joint processes and programmatic approaches have been utilized during the past FY to reduce duplicative actions.

Please see examples of DOT’s joint processes and programmatic approaches that have been utilized during the past FY to reduce duplicative actions:

Federal Highway Administration (FHWA)- FHWA has extensively promoted programmatic approaches through initiatives, such as Every Day Counts, and regular environmental program implementation. Programmatic approaches have been in transportation legislation including Section 1305 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Fixing America's Transportation Act (FAST Act) Section 1304(k), which promotes the implementation of programmatic approaches.

Through programmatic agreements (PA), FHWA establishes processes for handling routine environmental requirements for commonly encountered project types. PAs usually set procedures for consultation, review, and compliance with one or more federal laws, but they

⁴ FY19 BPAT, p. 24.

⁵ Documentation could include procedures, process documents, or other types of process documents.

⁶ Providing documentation on MAX.gov or as web links may replace written descriptions as long as page numbers are referenced for relevant sections.

can also address tribal, state, and local laws. PAs are part of a larger collection of programmatic approaches that include regional permits, programmatic consultations and other alternative arrangements with resource and regulatory agencies regarding environmental process reviews, data collection, and regulatory compliance. Efficiency is increased by considering repetitive actions at a program level rather than by individual projects, and appropriate consideration for the environment is maintained. PAs may be developed on a watershed, ecosystem, state, regional, or national scale.

Federal Transit Administration (FTA):

- FTA’s Environmental Rule (October 2018) and Environmental SOPs were updated in March 2019 to reflect procedures for One Federal Decision, Permitting Dashboard Requirements, the Combined FEIS/ROD process, and other general best practices. FTA Headquarters staff have monthly meetings with regional environmental staff to ensure the best practices included in this rule and SOP guidance are implemented. FTA Headquarters is providing in-person 2-day training to all FTA Regional Staff to ensure consistent approach of these best practice. In FY19 FTA Headquarters Staff have presented this regional training to four of the 10 regional offices, and is on schedule to complete the training to all ten regional offices by March 2020.
- The Section 106 of the NHPA Program Comment for “Activity-Based Approach” and the Section 7 of the ESA Programmatic Biological Opinions are used on a regular basis when needed.

Federal Railroad Administration (FRA)- FRA data inputs have been automated to integrate required data directly into the Permitting Dashboard, by linking FRA’s Project Management Tracker (PMT) with the Permitting Dashboard. FRA staff can enter the data once in the PMT which is then uploaded electronically to the Permitting Dashboard. FRA regularly uses, and has facilitated training on the Section 106 Program Comment for Rail Rights-of Way. FRA intends to adopt FHWA’s Section 4(f) Programmatic Evaluations for Net Benefit and Historic Bridges. FRA regularly uses the Range-wide Programmatic Biological Opinion/Informal Concurrence for Indiana Bat and Northern Long-eared Bat.

(Skip if your agency had no existing joint processes/programmatic approaches as of January 2019). For agencies with existing joint processes/programmatic approaches to reduce duplicative actions as of January 2019 that are applicable to FAST-41 project types, provide a list of these existing joint processes/programmatic approaches⁷.

FHWA:

⁷ Existing joint processes may be listed in the textbox provided, at web link(s) entered in the textbox that goes directly to the list, or in accompanying document(s) uploaded to the BP v-2 MAX.gov with relevant page numbers provided in the textbox.

[Greater Atlantic Regional Fisheries Office \(GARFO\) Programmatic Consultation](#)

[NMFS Southeast Regional Office Programmatic Consultation](#)

[Nationwide Section 4\(f\) Programmatic Evaluations](#)

[Program Comment](#) (for common post-1945 concrete and steel bridges and culverts

[MOU between USCG/FHWA/FTA/FRA](#) and [MOA between USCG and FHWA](#)

[Range-wide Programmatic Biological Opinion/Informal Concurrence for Indiana Bat and Northern Long-eared Bat \(NLEB\)](#)

- b. Identified new opportunities for establishing joint processes/procedures when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs.

FRA- Currently, FRA is documenting the technical process to assist other agencies across the Federal government that are required to document project information into the Permitting Dashboard. By linking data, agencies are provided the ability to integrate internal and external databases reducing administrative burdens as well as ensuring the efficiency and consistency of reporting data. FRA intends to adopt FHWA's Section 4(f) Programmatic Evaluations for Net Benefit and Historic Bridges.

- c. Created new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists.

FRA- Through extensive coordination between FRA's environmental and technology staff, and the Office of the Secretary of Transportation's technical team, who manages the Permitting Dashboard; FRA data inputs have been automated to integrate required data directly into the Permitting Dashboard for public posting. By linking the two databases, FRA staff enter the data once in the PMT which is then uploaded electronically to the Permitting Dashboard.

- d. Utilized the joint processes/programmatic approaches.

FRA- Data queries and reports generated from the Performance Management Tracker (PMT) are not just limited to project milestones and completion timeframes. PMT allows for search and tabulation functionality that generates comparison tables

for reporting of not only for FRA's grant and loans program, but also produces an account of environmental records in response to Congressional and Council on Environmental Quality inquiries, and environmental data requests from the Secretary and FRA Administrator.

- e. *(Skip if your agency had existing joint processes/programmatic approaches as of January 2019).* If your agency had no existing joint processes and/or programmatic approaches to reduce duplicative actions, as of January 2019, that are applicable to FAST-41 project types, please certify below in order to qualify for a **“No Opportunity” (N/O)** assessment result for Questions #3a and #3d.

4. *(Skip if response to Question #1 is no)* For the questions below, provide information⁸ on how your agency applied the procedure/process for developing and using joint processes/programmatic approaches to reduce duplicative actions in FY19 as described in Question #1?

- a. Did your agency have an opportunity to utilize or apply an *existing* joint process/programmatic approach to reduce duplicative actions in FY19? If yes, provide at least one example.

Yes, DOT utilized and applied various existing joint process/programmatic approaches to reduce duplicative actions in FY19:

FHWA- The Indiana and Northern Long Ear Bat range-wide programmatic consultation was completed with the goal of accelerating the environmental review process, improving conservation for the bats, standardizing the assessment of impacts across the range, and reducing the workload on FHWA, FWS, and State DOT staff. In the first 2 years of the programmatic, over 1,900 projects across 28 States used the range-wide programmatic consultation. We estimate that 1000s of projects benefit from using the programmatic each year. As a result, timeframes for formal consultations have been reduced from approximately 135 days to 30 days and informal consultations to as few as 15 days.

FTA- FTA issued Combined FEIS/RODs, and Cross Agency CEs in FY19. FTA also used the Section 106 Rail Rights-of-way Program Comment “Activity-Based Approach” and the USFWS general Programmatic Biological Opinion.

⁸ Examples may be described in the textboxes provided, at a web link(s) entered in the textbox that goes directly to the relevant information, or in accompanying document(s) uploaded to the BPv-2 MAX.gov page with relevant page numbers provided in the textbox.

FRA- FRA regularly issues combined FEIS/RODs. FRA also regularly uses the Section 106 Rail Rights-of-way Program Comment. This information is tracked and can be tabulated in FRA’s Project Management Tracker (PMT).

If no, please certify below that your agency had no opportunity to apply the agency’s *existing* (as of January 2019) joint processes/procedures to qualify for a “**No Opportunity**” (N/O) assessment result for Question #4a.

- b. Provide information on an opportunity your agency explored in FY19⁹ to create a *new* joint process/programmatic approach to reduce duplicative actions, and any decisions made about the viability of such an opportunity.

FTA- Currently FTA is finalizing responses to comments on ACHP’s “Property Based Approach” to the Rail ROW Program Comment. Once the “Property Based Approach” portion of the Program Comment is released for use, it will be available for use by all federal agencies to streamline Section 106 of the NHPA. (Note: it was released on Oct 11, 2019)

5. (Skip if response to Question #1 is **no**) Was the implementation of your agency’s procedure/process as described in Question #1 evaluated?¹⁰

Yes, DOT’s procedures/processes are consistently evaluated to improve efficiencies.

- a. If yes, when and how was the effectiveness of your agency’s new or existing/established process assessed?

FTA- FTA has developed the ability to track the use of Cross Agency CEs using TrAMS (FTA’s online grant management system), FTA has developed the ability to track the use of the Section 106 Program Comment on our internal SharePoint Site.

FRA- The duplication of data entry is time consuming, can cause delays in providing data to the Permitting Dashboard, and has the potential for data entry error.

- b. If yes, what were your agency’s findings, and were potential improvements identified?

⁹ For FY19, the expectation for this BP is that all agencies will explore opportunities to create new joint processes/programmatic approaches to reduce duplicative actions.

¹⁰ This evaluation could be internal or external (not including evaluation by OED).

FRA- By linking the two databases, FRA staff enter the data once in the PMT which is then uploaded electronically to the Permitting Dashboard avoiding duplication of efforts.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

FRA- The integration will continue as the Permitting Dashboard evolves, and technical assistance will be given to Agencies interested in similar efforts.



FY19 ARC Lessons Learned

One Federal Decision Implementation and Programmatic Approaches

September 10, 2019

United States Department of Transportation



Overview

- Update status of DOT efforts to implement One Federal Decision and improve environmental review/permitting
- Offer examples of DOT best practices for NEPA efficiencies:
 - Programmatic Approaches
 - Early coordination
 - Use of liaisons
- Focus on two Programmatic Approaches examples
 - Section 106 Program Comment
 - Indiana/Long-eared Bat Programmatic



Update on OFD Implementation and Other Environmental Review Improvement Efforts

Interim OFD Policy - Published in Federal Register for 30 day review/comment period on **August 23, 2019**

Interim Page Limits Policy - Published in Federal Register for a 30 day review/comment period on **August 23, 2019**

Re-evaluation Guidance - Finalized in **August 2019** and posted by FHWA, FTA, and FRA

NEPA Order Update - In DOT development, and anticipated to be submitted to CEQ for review and published in Federal Register for review/comment in **Fall 2019**



DOT Best Practices

- Planning and Environment Linkages (PEL)
- Eco-Logical
- Build America Bureau
- NEPA Assignment
- Liaisons
- Programmatic Approaches



Liaison Agreements: Use of Funded Positions (SAFETEA-LU, MAP-21, FAST Act)

- Allows State DOTs, Grantees, and other public entities to use Federal dollars to fund positions at resource agencies
 - Includes Federal and State agencies and federally recognized Indian Tribes
- Funds used to employ staff at resources agencies who are dedicated to work on State DOT or Grantee projects
- Benefits include:
 - Improved communication or dialogue among agencies
 - Better link between planning and environmental review processes
 - Resolved institutional/interagency relationship issues
 - Established performance measures
- FHWA maintains National Liaison positions with HQ for federal agencies to coordinate on Program Level issues
 - EPA, ACOE, NOAA, ACHP, USCG



Programmatic Approaches (PAs)

- DOT Project Sponsors extensively use PAs to achieve cost savings, accelerate project delivery, and increase certainty about the project development.
- PAs can be state, region or multi-region, or national
- Two examples
 - Section 106 Program Comment
 - Indiana/Long Ear Bat Programmatic



Section 106 Program Comment

- ACHP Program Comment to Exempt Consideration of Effects to Rail Properties in Rail Rights-of-Way
- Alternative means for Federal agencies to fulfill responsibilities under Section 106 for undertakings affecting rail properties
- Two methods for exempting consideration of effects
 1. Activities-based approach
 2. Property-based approach



Indiana/Long-Ear Bat Programmatic

- FHWA, FRA, FTA, and FWS standardized ESA approach to assessing impacts to Indiana bats and northern long-eared bats through a range-wide programmatic biological opinion
- Spans five regions, covering 38 states and District of Columbia
- Includes streamlined consultation procedures, which reduce agencies' workload and ensuring appropriate interagency coordination of actions



An NLEB with visible symptoms of WNS.
(courtesy of USFWS)



Indiana/Long-Ear Bat Programmatic

- Programmatic used on over 900 projects in at least 18 states
- For state DOTs, methodology repeatable, simple
- Avoids effects analysis or extensive documentation by State DOTs to inform the informal consultation process
- State DOTs now simply fill out project submission form, 20-30 minutes to complete



An Indiana bat perches on a roost tree. (courtesy of USFWS)



Questions?

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ISSUE PAPER

Subject: FY 19 Best Practices Assessment Tool (BPAT) Submission to the Federal Permitting Improvement Steering Council (FPISC)

Background: The Office of Policy’s Office of Federal Activities (OFA) coordinates the implementation of FAST 41 for EPA and incorporates input from program offices into an annual Best Practices Assessment Tool (BPAT), which is incorporated by the Federal Permitting Improvement Steering Council (FPISC) into an Annual Report to Congress. Last year, EPA’s BPAT submission received a “green” on 9 out of 9 the applicable best practices.

Discussion:

The FY 19 BPAT required submission, due on October 2, 2019, was initially reduced to three questions for all agencies (including EPA) that do not serve as a lead agency for FAST-41 covered projects. Of the three categories, only one best practice requires a comprehensive response. On September 20, 2019, Alex Herrgott, Executive Director of FPISC, notified all federal agencies outlining a revised requirement and extending the due date to September 20th. Citing feedback from several agencies on a cumbersome process that didn’t align with the Annual Report to Congress, the FY 19 BPAT submission was modified to a one-page submission. Additionally, the signature of the agency’s Council member, or the Council member’s designee, is required.

Action Required:

- That you sign below indicating approval of the attached EPA FY19 best practices submission, or delegate the authority to sign to Rob Tomiak in his capacity as the Chief Environmental Review and Permitting Official (CERPO).
- Due date: October 16, 2019

Decision by EPA Council Member, Doug Benevento, Associate Deputy Administrator

Approved:  _____ OCT 16 2019

Delegated to CERPO for signature: _____

Further discussion required: _____



EPA FY 19 Best Practices Assessment Tool Submission

The U.S. EPA, in its capacity as a Cooperating Agency on FAST-41 covered projects, has focused its effort on joint efforts that contribute to increased coordination, improved timeliness, and a reduction of duplicative process steps. Implementation of these best practices will reduce admin burden and duplicative efforts, increasing the efficiency of the federal environmental review and permitting processes. The EPA's most significant accomplishments are most closely aligned with Best Practice (BP) v.2 which requires the development, enhancement, and/or use of joint processes or programmatic approaches among Federal agencies, and with State, local, and tribal governments with similar authorities, to reduce duplicative actions. The EPA's noteworthy FY 19 accomplishments include:

- EPA in partnership with U.S. Fish and Wildlife Service and National Marine Fishery Service developed a regional framework for the Endangered Species Act (ESA) Water Quality Standards (WQS) Consultation process. The framework stemmed from a broader memorandum of agreement between the agencies and articulated dispute elevation criteria essential for timely problem solving. Successful implementation led to time and cost savings on complex ESA consultations with differing opinions on scope and assessment methodologies on multiple WQS projects.
- EPA developed a CWA Section 404 handbook to guide EPA field staff in communicating specific, targeted, and regulation/authority-based information needed to ensure more streamlined and environmentally responsive engagement in the CWA Section 404 review process with USACE counterparts. The primary goal of this resource is to communicate effectively and consistently information needs up front, which will help USACE execute an efficient and timely CWA Section 404 review process.
- EPA reduced its backlog of new permit applications (those pending for more than 180 days) by over 50%. This does not include permits issued by delegated states. Permit streamlining is one of six Agency Priority Goals (APGs) identified by the Administrator. Over the past year, EPA created a comprehensive system to track the status of all pending permits and made significant updates to simplify and improve application forms.
- EPA continued to provide its NEPAAssist environmental planning web-based platform and conducted training for NEPA practitioners in other federal agencies. NEPAAssist contains GIS informational layers extremely useful to building a baseline characterization of the existing environment as well as identifying potential environmental considerations in support of drafting federal NEPA documents. EPA continues to record approximately 4,500 site visits per month.

Additionally, the following joint effort was initiated, but not yet completed, with USACE partners.

- EPA and USACE collaborated to develop a MOA describing a new joint process/programmatic approach for collaboration and early engagement on CWA section 404 permit and ocean dumping activities. FY20 actions will be planned with USACE to finalize and implement the MOA nation-wide.

EPA Permit Streamlining Lessons Learned



Office of Federal Activities
August 27, 2019

EPA Permitting Context

- EPA issues permit authorizations for < 5% of all permits nationwide
 - Non delegated states, federal and tribal lands
- Almost all EPA permit authorizations are in 4 areas
 - OW: NPDES and UIC
 - OAR: Title V and NSR
- EPA's role in major infrastructure projects
 - EPA issued 1 permit (NPDES) in FY19, 4 planned in FY20
 - EPA will likely never be a Lead Agency
 - NEPA/CAA Section 309 EIS Review



EPA Commitment to Continuous Improvement

- Office of Policy promoting innovation since 2003
- 2018-22 Strategic Plan
 - Deployment of EPA Lean Management System (ELMS)
 - Speed up permitting (180 days or less) amongst 16 agency Priority Area Kaizens
- Permit authorization streamlining efforts
 - Established a Permitting Policy Office (w/in OFA)
 - Lean Kaizen events for NPDES, UIC, Title V, NSR
 - Accountability (ELMS) with monthly Bowling Charts and Business Review Meetings to track permitting



ELMS Tools/Approach

- Leaders/managers responsible for performance measures
- Employ problem-solving tools (Kaizen events and A-3s)
- Provide breakthrough measures and have targeted intervals to take stock/action
- Implement visual management approaches/tools



Breakthrough Project		Project Name: Endangered Species Act & Permitting Workgroup		Program: Office of Water		Report Date: 2/7/2019																													
1. PROJECT DEFINITION (Plan)																																			
<p>Problem Statement: EPA is required to consult with the Services on proposed permits to determine (and if present, mitigate) any potential impacts to threatened and endangered species (Endangered Species Act). This process has caused delays in the permitting process.</p> <p>Scope: Initially, the workgroup will evaluate how the process has worked for both individual and general NPDES permits issued by EPA.</p> <p>Goal: Reduce the amount of time that it takes to complete the consultation process required for EPA-issued permits.</p> <p>* U.S. Fish & Wildlife Service (DOI) and National Marine Fisheries Service (NOAA, Department of Commerce)</p>																																			
2. ANALYSIS (Plan)																																			
<p>Draft Strategy</p> <p>Aim to improve the ESA consultation process by focusing on upcoming work related to the backlogged administratively continued NPDES permits.</p> <p>Our plan is to identify the subset of backlogged permit applications that have complex ESA issues; categorize them according to each specific issue and local area; and approach the respective local F&WS offices to explore options for how we could work together to resolve those issues expeditiously.</p> <p>In the process of identifying solutions for those permits, we would expect to identify general process improvements that would benefit other EPA permitting processes.</p>																																			
#	Assigned Date	Action to be Taken	Action Owner	Due Date	Percent Complete	Control Chart Date																													
1		Identify Permits w/ ESA Issues - Work with the Regions to review the backlogged administratively continued permits to identify those permits that have complex ESA issues.	Bairns	3/1/19	100%	100%	100%																												
2		Develop a national level inventory of permits. Review and categorize them to see which are completed or issued due to ESA issues.	Bairns	3/1/19	100%	100%	100%																												
3		Identify the Regions with work Region to work through the permits to identify the necessary.	Bairns	3/15/19	100%	100%	100%																												
4		Complete calls with each Region regarding ESA issues to determine the specific issues anticipated in the ESA consultation process (e.g., local projects), timing for issuance and how they might be able to work with us to engage the F&WS offices (e.g., what level, etc. based on the issue).	Bairns	3/1/19	100%	100%	100%																												
5		OW discusses proposed ESA strategy options at Branch Chiefs Meeting to decide.	Gutierrez	3/15/19	100%	100%	100%																												
6		Based on the Regional recommendations, engage with local or regional level (R&D) public F&WS office to discuss a plan of action about the specific ESA issues related to pending permits and how to address the issues and when.	Regional project (R&D) and project team representative	3/28/19	100%	100%	100%																												
7		OW discusses proposed ESA strategy, as well as local projects and regional requirements, at national water branch chief meeting (E).	Gutierrez and Weiss	04/10/19	100%	100%	100%																												
8		Continue to work with Regions to identify areas and processes that require permit processing.	Weiss	06/30/19	100%	100%	100%																												
9																																			
<p>Team</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Role</th> </tr> </thead> <tbody> <tr> <td>Walt Terabe</td> <td>Executive Sponsor</td> </tr> <tr> <td>Sally Gutierrez</td> <td>Process Owner</td> </tr> <tr> <td>Laura Dentle</td> <td>Project Lead</td> </tr> <tr> <td>Kim Green</td> <td>Co-Manager</td> </tr> <tr> <td>Kim Green</td> <td>Coach</td> </tr> <tr> <td>OW</td> <td>Suzanna Bairns</td> </tr> <tr> <td>NPDES Regional</td> <td></td> </tr> <tr> <td>NPDES Regional</td> <td></td> </tr> <tr> <td>OW</td> <td></td> </tr> </tbody> </table> <p>Issues/Obstacles</p> <p>Some problems may require collaboration with the Services (F&WS and NMFS) to resolve.</p> <p>Project Management</p> <p>Day and time for regular update meeting:</p> <p>Regular updates due to project lead by:</p> <p>External Cost for this project (if any):</p> <p>Progress</p> <p>Project Start Date: _____</p> <table border="1"> <thead> <tr> <th>P</th> <th>D</th> <th>C</th> <th>A</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> </tr> </tbody> </table> <p>Estimated Project Completed Date: _____</p>								Name	Role	Walt Terabe	Executive Sponsor	Sally Gutierrez	Process Owner	Laura Dentle	Project Lead	Kim Green	Co-Manager	Kim Green	Coach	OW	Suzanna Bairns	NPDES Regional		NPDES Regional		OW		P	D	C	A	1	2	3	4
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ELMS Bowling Chart

August		FY 2019 Mission Measure Bowling Chart					DRAFT - INTERNAL AND DELIBERATIVE					Updated: 8/21/2019					AO		
Metric ID	Long Term Perf	Performance Metric Title	Custom Field	JOP	Target Direction	YTD	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	August	Sept	
Breakthrough Metrics																			
B01	3.4.1	Backlogged new permit applications (number)	AO-IO	1-Oct-18	Decrease	Target 30	135	132	129	126	110	94	78	62	46	30	14	0	
				131		Actual 61	131	120	107	110	100	89	30	71	68	61			
B04	3.5.3	Operational processes improved (number)	OCI	1-Feb-19	Increase	Target 36	-	-	-	-	6	6	6	6	6	6	6	6	
				3		Actual 36	-	-	-	-	3	4	4	2	2	21		6	
B05	2.1.1	Grant commitments achieved by states, tribes, and local communities (percent, quarterly)	OCIR	1-Apr-20	Increase	Target 80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	
				TBD		Actual -	-	-	-	-	-	-	-	-	-	-	-	-	
B06	2.1.2	Alternative shared governance approaches used to address state, tribal, and local community reviews (number)	OCIR	1-Apr-19	Increase	Target 8	-	-	-	-	-	-	2	2	4	4	4	4	
				4		Actual 6	-	-	-	-	-	-	4	0	2				
B07	2.2.1	Backlog of AO-assigned FOIA requests exceeding the statutory deadline for response (number)	OEX	1-Oct-18	Decrease	Target 1,159	1,474	1,439	1,404	1,369	1,334	1,299	1,264	1,229	1,194	1,159	1,124	1,089	
				1,474		Actual 1,208	1,474	1,480	1,475	1,463	1,456	1,402	1,319	1,293	1,257	1,208			
B08	3.2.2	Hours of paperwork burden imposed by EPA (number)	OP-SSP	1-Oct-18	Decrease	Target 170,516,332	171,849,665	#####	171,516,332	171,349,665	171,182,998	171,016,332	170,849,665	170,682,998	170,516,332	170,349,665	170,182,998	170,016,332	
				#####		Actual 171,455,213	171,823,038	#####	#####	170,225,125	170,160,780	169,716,890	170,575,605	171,511,246	171,455,213				
Operational / Sustainment Metrics						166,667													
S27	3.4.1	Backlogged permits for existing facilities (number)	AO-IO	1-May-13	Decrease	Target -	-	-	-	-	-	-	-	-	-	-	-	-	
				482		Actual 452	-	-	-	-	-	-	-	482	479	452			
S01	-	Processing time for HR actions (number)	OAES	new no JOP	Decrease	Target -	-	-	-	-	-	-	-	-	-	-	-	-	
				1-Oct-18		Actual -	-	-	-	-	-	-	-	-	-	-	-	-	
S02	-	Travel vouchers submitted within 5 days (percent)	OCHP	2/3/34	Increase	Target 77%	75%	75%	75%	80%	80%	80%	80%	80%	80%	85%	85%	85%	
				61%		Actual 68%	61%	68%	76%	-	67%	69%	76%	70%	68%				
S03	-	Workgroups, guidance, policies, research, indicator or external review efforts engaged (number)	OCHP	1-Oct-18	Increase	Target 405	45	45	45	45	45	45	45	45	45	45	45	45	
				43		Actual 411	43	41	41	28	41	44	53	63	57				
S04	-	Children's health related stakeholders reached (number)	OCHP	1-Oct-18	Increase	Target 96,000	11,000	11,000	11,000	11,000	11,000	11,000	10,000	10,000	10,000	10,000	10,000	10,000	
				17,683		Actual 34,522	17,683	13,704	8,181	8,337	3,320	3,153	10,238	11,141	6,165				
S05	-	Agency engagements regarding intergovernmental environmental policy and priorities (number)	OCIR	1-Oct-18	Increase	Target 420	35	35	50	50	50	50	50	50	50	50	50	50	
				85		Actual 480	85	81	11	0	39	64	55	31	114				
S06	-	Total overdue state and tribal requests for the agency (number)	OCIR	1-Oct-18	Decrease	Target -	-	-	-	-	-	-	-	-	-	-	-	-	
				39		Actual 29	39	18	15	16	11	8	6	7	29	9			
S07	-	Title VII EEO complaint investigations completed on time (percent)	OCHP	1-Oct-18	Increase	Target 92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	
				3/3		Actual 91%	100%	100%	100%	-	75%	67%	100%	100%	100%				
S08	-	Alternate Dispute Resolution participation (percent)	OCHP	1-Oct-18	Increase	Target 50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	
				3/6		Actual 54%	38%	80%	78%	-	50%	39%	50%	40%	50%				
S09	-	Days to close executive correspondence (number)	OEX	1-Oct-18	Decrease	Target 25	25	25	25	25	25	25	25	25	25	25	25	25	
				23		Actual 21	23	20	26	34	22	30	16	11	26	21			
S10	-	Intelligence Program integration, information dissemination, and operations & analysis actions (number)	OHS	1-Oct-18	Increase	Target 600	45	50	50	55	60	60	65	70	70	75	80	85	
				186		Actual 893	186	112	102	74	62	89	100	69	58	41			
S11	-	Homeland Security Program development, coordination, and implementation actions (number)	OHS	1-Oct-18	Increase	Target 290	30	35	35	40	40	20	20	20	25	25	25	30	
				30		Actual 368	30	39	37	5	35	63	51	51	36	21			



Best Practices Assessment Tool (BPAT)

- BPAT helps highlight ongoing practices and ethic at EPA
- OP documents, evaluates and promotes the use of BPs agencywide
- Coordinates program/regional information sharing
- Leads streamlining efforts for cross-cutting issues (e.g., ESA)

BEST PRACTICES	BEST PRACTICES															
	I-1a	I-1b	I-2	I-3	II-1	II-1	II-2	II-3	III-1	III-2	III-3	IV-1	IV-2	IV-3	IV-4	IV-5
	Information in Agency Websites	Non-Traditional Outreach Methods	Coordinated Project Plan	Public Pre-Application Process	Consent Review	Joint Application Processor/Programmatic Approaches	Establish Liaison or Point of Contact	Regular Coordination	Provide Early Permitting Information	Use Permitting Dashboard	Develop or Use Process Templates	Process for Transferring General Projects	Provide GIS Information	Tutorial Project Guide	Evaluate Procedures and Share Findings	
ACNP															P	☆
Army/USACE	P	☆	P	P	SC	SC	SC	SC	SC	SC	P	P	SC	P		☆
BHS	N/A					SC			N/A	SC	P	P	N/A	P		SC
DOC	P					SC			SC	SC	P	P	SC	P		☆
DOO															P	SC
DOE	N/A		N/A			SC			N/A	SC	P	P	SC	P		☆
DOI	P	SC	P	P	SC	SC	SC	SC	SC	☆	P	P	SC	P		☆
DOT															P	SC
EPA	P					SC			SC	SC	P	P	SC	P		☆
FERC	P	☆	P	N/A	SC	SC	SC	SC	N/A	SC	P	P	N/A	P		☆
HUD	P	LP	P	N/A	SC	SC	SC	N/A	N/A	SC	P	P	SC	P		SC
MHC	P	N/A	P	N/A		SC	SC	N/A	N/A	SC	P	P	N/A	P		☆
USDA	P	LP	P	P	SC	SC	SC	SC	SC	☆	P	P	SC	P		☆

LEGEND

☆	Exceeding the Best Practices Requirements	P	Pass
SC	Succes Implementing Best Practices	F	Fail
☆	Some Progress Implementing Best Practices	SC	Not Scored
LP	Little Progress Implementing Best Practices	N/A	Not Applicable

NOTES

- Agency verifies that only one process for which all departments, programs, etc., implement the process in reality for the same way (including using the same terms).
- Agency verifies that no public outreach was required in FY 2018.
- The Paris and Eastern Shore Line project was complete, and thus excluded from analysis.
- Lead agency verifies that for its "in-progress" projects in FY 2018 the project sponsor did not request a permit application meeting or the project was not at an application stage since October 1, 2017.
- Lead agency verifies score of its projects needed a meeting in FY 2018.
- See Chapter 1, Best Practices Assessment, for detail on how agencies were scored for BP in 1.
- Agency verifies that none of its projects qualify for the type of engagement in FY 2018.
- See Chapter 1, Best Practices Assessment, for detail on how agencies were scored for BP in 2.
- Agency verifies that it does not have any publicly available outreach to actually assess the potential for environmental reviews in a permit area.



EPA Accomplishments

- Established universe of permits authorized by EPA
- Reduced by 50% backlog of permits exceeding 180 days
- Deployed ELM to 80% of the work units agencywide (by October 2019)
- Established over 400 metrics across the agency
- Created standardized method for communicating whether monthly targets are being met
- Hosted 11 multi-day Kaizen Lean events for the agency's most critical functions
- Provided ELMS training agencywide for staff and first line supervisor



Lessons Learned

- Leadership and setting priorities are key to transformation
- You can't improve a process if you don't measure it
- Empower those who “touch” the process to make it better
- Emphasize understanding the problem and being disciplined in the execution of solving it in a sustained way
- FPISC's BPAT serves to help highlight best practices across the agency



Questions?



Contact

Scott Bowles
Permitting Policy Division
Office of Policy
(202) 566-2208
bowles.scott@epa.gov



MEMORANDUM

TO: Alex Herrgott
Executive Director, Federal Permitting Improvement Steering Council

FROM: Heather Campbell
Chief Environmental Review and Permitting Officer
Federal Energy Regulatory Commission

SUBJECT: Submission for Fiscal Year 2019 Annual Report to Congress

DATE: October 16, 2019

Pursuant to your September 20, 2019 email regarding agency submissions for the FY 2019 Annual Report to Congress, Commission staff have prepared the attached document with our input. The document describes our progress in meeting the intent of each applicable Best Practice (BP) and highlights our ongoing and planned efforts to improve review processes for natural gas and hydropower projects. Please let me know if you have any questions.

BP i-1: The lead 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 lead agency may, but is not required to, use past experience to develop an initial list of stakeholder contacts. Lead agencies should solicit involvement of cooperating and participating agencies in the early stakeholder engagement as appropriate and allowed by applicable laws and regulations.

Commission staff could not implement this BP for FAST-41 covered projects in FY 2019. For all of the Commission's covered projects, an application was filed prior to the beginning of FY 2019.

BP i-2: The lead 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 lead 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).

In late 2018, Commission staff worked with FPISC-OED to develop an alternative approach for this BP. FPISC-OED has indicated that a general written description of the Commission's formal pre-filing process would be sufficient.

The Commission has robust, structured pre-filing processes that include extensive pre-application communication with project sponsors and other stakeholders. The specific steps in the Commission's pre-filing processes vary depending on project type, among other things; however, each process includes some common principles. In general, project sponsors are required to: (1) present the proposed project to appropriate stakeholders (e.g., state and federal agencies, Indian Tribes, local landowners, and non-governmental organizations); (2) consult with those stakeholders; (3) identify issues; and (4) gather information.

Commission staff participate in meetings (teleconference and in-person) with project sponsors and other federal and state agencies throughout pre-filing. These meetings encourage dialogue to identify and address issues early, when a project sponsor is still developing its final proposal and relevant permitting applications. Additionally, Commission staff review draft applications and resource reports to identify additional information needed to efficiently process a formal application.

For LNG and hydropower projects, pre-filing is required; for natural gas pipeline projects, pre-filing is not required but encouraged for complex projects that could benefit from early engagement. In FY 2019, Commission staff took proactive steps to ensure that project sponsors are aware of FAST-41 early in pre-filing. Specifically, Commission staff added standard language to pre-filing approval letters informing project sponsors that their projects, once filed, may qualify as a covered project under FAST-41, and directing them to additional FAST-41 information on the Commission's public website.

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.

Commission staff have developed a range of resources for project sponsors in the Commission's review processes for natural gas and hydropower projects. The Commission's public website (see www.ferc.gov) includes process flowcharts, application-adequacy checklists, application templates, and other guidance documents to assist project sponsors with filing required information in a timely manner. For ease of access, these resources are housed on webpages dedicated to guidance materials, as referenced below.

Commission staff also coordinated with other federal agencies in FY 2019 to develop resources that could increase the transparency of the federal review process for natural gas projects. Project sponsors, industry groups, and federal agencies have indicated that consolidating information/filing requirements for common federal permits/reviews into a single guidance document would be useful. Specifically, such a resource could reduce uncertainty for project sponsors and improve the timeliness and completeness of applications filed for federal agencies' reviews. As part of interagency natural gas meetings organized by Commission staff in FY 2019, we worked to identify other federal agencies' application-adequacy checklists (or information/filing requirements) for their review processes. Commission staff have started to receive input from agencies for this resource, and plan to continue our interagency coordination efforts in FY 2020.

Natural Gas

- Flowchart depicting the Natural Gas Act review process:
<https://www.ferc.gov/industries/gas/nga-review-process.pdf>.
- Environmental Guidelines webpage, including guidance documents on preparing resource reports for applications and BPs for industry outreach to stakeholders, among others:
<https://www.ferc.gov/industries/gas/enviro/guidelines.asp>.
- Third-Party Contractors webpage, including a handbook for project sponsors using third-party contractors to prepare environmental documents:
<https://www.ferc.gov/industries/gas/enviro/tpc.asp>.

Hydropower

- Licensing webpage, including flowcharts depicting the pre- and post-filing steps in each of the Commission's three licensing processes and guidance documents on selecting the appropriate licensing process, among others:
<https://www.ferc.gov/industries/hydropower/gen-info/licensing.asp>.
- Guidelines webpage, including application-adequacy checklists, guidelines for filing applications, and various other guidance documents on specific filing requirements:
<https://www.ferc.gov/industries/hydropower/gen-info/guidelines.asp>.
- Handbooks webpage, including a handbook for project sponsors using third-party contractors to prepare environmental documents, among others:
<https://www.ferc.gov/industries/hydropower/gen-info/handbooks.asp>.

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.

In late 2018, Commission staff worked with FPISC-OED to develop an alternative approach for this BP. FPISC-OED has indicated that a general written description of the Commission's formal tribal consultation process would be sufficient.

The Commission's Policy Statement on Consultation with Indian Tribes in Commission Proceedings (Order No. 635) is available at: <https://www.ferc.gov/legal/maj-ord-reg/order-635.pdf>.

The policy statement articulates the Commission's commitment to promote a government-to-government relationship between itself and federally recognized Indian Tribes. Among other things, the policy statement also: (1) recognizes the sovereignty of tribal nations and the Commission's trust responsibility to Indian Tribes; (2) establishes a tribal liaison who will act as a guide for Indian Tribes' participation in Commission proceedings; and (3) establishes certain actions specific to the Commission's hydropower program to increase direct communications with tribal representatives in certain proceedings.

The Commission's rulemaking for the Integrated Licensing Process (Order No. 2002) is available at: <https://www.ferc.gov/whats-new/comm-meet/072303/H-1.pdf>.

This final rule was the culmination of efforts by the Commission and other stakeholders, including Indian Tribes, which resulted in a new licensing process (i.e., the Integrated Licensing Process). The Integrated Licensing Process provides for, among other things, additional coordination with Indian Tribes, including a regulatory requirement to meet with willing Indian Tribes no later than 30 days after the filing of a Notice of Intent to seek a license. This meeting allows Commission staff to speak freely with Indian Tribes and gather pertinent information regarding tribal concerns.

The Commission's Guidelines for Reporting on Cultural Resources Investigations for Natural Gas Projects is available at: <http://www.ferc.gov/industries/gas/enviro/guidelines/draft-cultural-guidelines.pdf>.

The Commission developed and issued guidelines for natural gas project sponsors and their contractors to prepare information, analyses, and recommendations to assist the Commission in meeting its section 106 responsibilities. The guidelines describe the proper procedures for conducting investigations on tribal lands, initiating consultation with Indian Tribes, and filing related information with the Commission.

On a quarterly basis, Commission staff hold internal Cultural Resource Working Group Meetings to discuss BPs and lessons learned for working with Indian Tribes. The working group identifies challenges to the section 106 process, in both the natural gas and hydropower programs, and discusses approaches to addressing tribal concerns in a timely manner and developing better working relationships with Indian Tribes.

Additionally, in a recent Government Accounting Office (GAO) Audit on Tribal Consultation (see <https://www.indian.senate.gov/news/press-release/gao-study-finds-federal-agencies-tribal-consultation-policies-infrastructuree>), GAO found the Commission's tribal consultation policy to be

acceptable and made one recommendation, stating that “the Chairman of the Federal Energy Regulatory Commission should document in the agency's tribal consultation policy how agency officials are to communicate with tribes about how tribal input from consultation was considered in agency decisions on infrastructure projects.” Commission staff are working to implement this recommendation, as appropriate.

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.

The Commission did not have any new FAST-41 covered projects in FY 2019, so no initial CPPs were developed. However, Commission staff extensively coordinate with other agencies via email and teleconference to develop initial CPPs, including required permits/reviews, milestones, and interdependencies. CPPs are also circulated to the project sponsor, so that they can provide input (e.g., schedule for filing required information) and understand the steps in each review process. On a quarterly basis, Commission staff email the cooperating/participating agencies and project sponsor with detailed instructions for providing updates to the relevant CPP and permitting timetable.

Commission staff informed the project sponsor and other agencies of three substantive schedule changes for covered projects in FY 2019. On February 28, 2019, the Commission issued notices revising the schedules for the environmental reviews and final orders for the Jordan Cove Energy Project and Alaska LNG Project (see <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15172047> and <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15172046>, respectively). As described in the notices, the Jordan Cove Energy Project schedule was revised due to the funding lapse at certain federal agencies, and the Alaska LNG Project schedule was revised based on the project sponsor's projected date for filing additional information necessary for Commission staff's review. Additionally, on September 27, 2019, the Commission issued a notice revising the schedule for the environmental review and final order for the Jordan Cove Energy Project (see <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15363763>).

Prior to issuance of the September 27 notice for the Jordan Cove Energy Project, Commission staff learned that cooperating agencies had identified critical information that they needed from the project sponsor for incorporation into the final EIS. Staff promptly convened several teleconferences with all of the cooperating agencies, including CERPOs and senior staff, to determine a path forward that would minimize delays to issuance of the final EIS. This coordination resulted in a revision to the schedule of approximately one month, rather than an extended delay had the additional coordination not taken place.

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.

Commission staff use a records management system and intra-agency communication process to ensure continuity of knowledge when staff changes are necessary. All relevant project information is continuously maintained and updated in the Commission's eLibrary system at:

<https://www.ferc.gov/docs-filing/elibrary.asp>, which ensures that each project's administrative record is accessible and easily searchable by new staff. Additionally, each Commission-led project is assigned two project managers (i.e., project manager and deputy project manager) to mitigate any potential loss of project-specific knowledge. When changes to a project team are necessary, the relevant branch chief ensures that any new team member is briefed on the project by the project/deputy project manager, and, if necessary, establishes an appropriate transition period for staff changes to go into effect.

The process for informing outside parties of a staffing change depends on the level of the staff changes and stage in the project review process. To identify a new point of contact for a project, Commission staff would update the Permitting Dashboard and CPP as soon as practicable, and inform project sponsors and FAST-41 participants of these updates via email. In addition, new staff are introduced at any public meeting for a project, and, as appropriate, through email or teleconference correspondence.

There were no substantive staff changes for covered projects in FY 2019.

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, to reduce duplicative actions (e.g., related to data collection and analysis). Joint processes could 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.”

The Commission has various joint processes or programmatic approaches with other federal agencies to improve review processes for infrastructure projects. Many of these processes/approaches are implemented via MOUs, which can be found on the Commission’s public website (see <https://www.ferc.gov/legal/mou.asp>). We have incorporated these processes/approaches into internal guidance to ensure that they are implemented, as appropriate.

In FY 2018, Commission staff conducted an internal assessment of its review process for the siting and safety of Commission-jurisdictional LNG facilities. In cooperation with the Pipeline and Hazardous Materials Safety Administration (PHMSA), within the U.S. Department of Transportation, we developed a programmatic approach to improve coordination throughout the application process for LNG facilities. On August 31, 2018, the Commission and PHMSA signed an MOU to establish this framework for improved coordination (see <https://www.ferc.gov/legal/mou/2018/FERC-PHMSA-MOU.pdf>). The MOU establishes various steps in the coordination process to maximize the exchange of relevant information, including a framework for sharing documents, inspection findings, and other information to avoid duplication of efforts in the review of LNG facilities under the Natural Gas Act, NEPA, and Pipeline Safety Act (see section 3 of the MOU).

In FY 2019, Commission staff began implementing the MOU with PHMSA, and there has been improved processing time of applications with the Commission. Commission staff have been able to independently parallel process its review under the Natural Gas Act and meet the environmental review schedules publicly released in August 2018. We had more consolidated and comprehensive engineering data requests (and less hazard modeling data requests related to siting) issued, which helped lead to significantly more NEPA documents and orders.

Commission staff also regularly communicate with other federal agencies to assess the effectiveness of existing joint processes or programmatic approaches. Most recently, this was a subject of discussion at Commission staff’s July 2019 interagency natural gas meeting. As described in our input for BP ii-1 above, this interagency meeting has aided in the joint development of a resource for project sponsors and federal agencies. We plan to continue to assess existing processes/approaches as part of interagency natural gas meetings in FY 2020.

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.

Commission staff have developed a range of resources to help project sponsors and other stakeholders effectively participate in the Commission’s review processes for natural gas and hydropower projects. For ease of access, these resources are housed on the Commission’s public website and organized by project type (e.g., natural gas pipeline, LNG, hydropower) and topic (e.g., review processes, handbooks, FAST-41). The linked webpages below include a sampling of these online resources (see response to BP ii-1 for resources specific to project sponsors). Each of the webpages linked below include numerous resources.

Natural Gas

- Main webpage: <https://www.ferc.gov/industries/gas.asp>.
- Environment webpage: <https://www.ferc.gov/industries/gas/enviro.asp>.
- Environmental Guidelines webpage: <https://www.ferc.gov/industries/gas/enviro/guidelines.asp>.
- Natural Gas Act Review Process flowchart: <https://www.ferc.gov/industries/gas/nga-review-process.pdf>.

Hydropower

- Main webpage (including pre- and post-filing process flowcharts): <https://www.ferc.gov/industries/hydropower.asp>.
- Main licensing webpage: <https://www.ferc.gov/industries/hydropower/gen-info/licensing.asp>.
- Guidelines webpage: <https://www.ferc.gov/industries/hydropower/gen-info/guidelines.asp>.
- Handbooks webpage: <https://www.ferc.gov/industries/hydropower/gen-info/handbooks.asp>.

Commission staff periodically evaluate the content and organization of the public website to identify potential additions or improvements. Revisions are often the product of feedback from stakeholders at staff-led outreach events, like our natural gas seminars, or new legislation or initiatives. Commission staff incorporated a number of new resources into the public website in late FY 2018 and FY 2019, as referenced below. Commission staff promote these resources through presentations at various conferences, workshops, and other outreach events, and plan to continue these efforts in FY 2020.

- E-learning: FERC Environmental Review and Compliance for Natural Gas Facilities: <http://www.ferc.gov/industries/gas/e-learning.asp>. Features 13 training modules covering a range of topics, including the Commission’s regulatory responsibilities, NEPA review, general-construction procedures, and post-construction activities, among others.
- Natural Gas Project Landowners/Stakeholders webpage: <http://www.ferc.gov/industries/gas/landowner-topics.asp>. Guides landowners to various resources and FAQs on understanding the Commission’s role in reviewing natural gas projects, how they can participate in the review process, and how to resolve disputes that arise during construction.
- OFD webpage: <https://www.ferc.gov/industries/gas/gen-info/one-federal.asp>. Describes Commission staff’s implementation of OFD.
- America’s Water Infrastructure Act of 2018 webpage: <https://www.ferc.gov/industries/hydropower/gen-info/water-infr-act.asp>. Includes information on the Commission’s expedited process for issuing licenses for qualifying facilities at existing non-powered dams and closed-loop pumped storage projects.

BP vii-1: Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials. The training materials 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, pre-application).

In addition to the resources described in our input for BPs ii-1 and vi-1 above, the Commission's public website includes a webpage dedicated to FAST-41 (see www.ferc.gov/legal/fed-sta/fast-41.asp). This webpage includes information on how to become a covered project, links to relevant guidance, and contact information for additional questions.

Implementation of FAST-41 and the Permitting Council's BPs were extensively discussed at Commission staff's interagency natural gas meetings in FY 2019. At the July 2019 meeting, we included agenda items to prompt interagency discussion related to BPs i-1, i-2, ii-1, v-2, and vii-2. We provided guidance on, and discussed, the Commission's pre-filing process and opportunities for concurrent application reviews. Commission staff also suggested developing adequacy checklists (or information/filing requirements) for federal agencies' reviews (see input for BP ii-1 above), identifying key agency points of contact to expedite communication between agencies, and scheduling additional FAST-41 and OFD-specific training for other agencies.

After coordination at the July 2019 interagency meeting, Commission staff conducted a webinar in September 2019 for EPA's NEPA program managers and permit writers throughout its 10 regions. The webinar focused on lessons learned implementing FAST-41, including those related to early interagency coordination, clear and consistent communication on review schedules, and additional agency-specific training opportunities.

Commission staff also participated in a number of outreach activities and training events to discuss the implementation of FAST-41 and OFD, as listed below.

- March 2019 - National Hydropower Association Conference (Washington, DC)
- June 2019 - Training Workshop for USDA Forest Service (Ft. Collins, CO)
- August 2019 - Interstate Natural Gas Association of America Meeting (Washington, DC)
- September 2019 - Energy Infrastructure Council Meeting (Washington, DC)

While these training events were beneficial, Commission staff also faced some challenges. When providing training for other agencies' field-office staff, it is often their first exposure to FAST-41 or OFD. This limits the scope and content Commission staff can effectively cover in a single session, including substantive issues related to interagency coordination. Additionally, Commission staff may not be familiar with other agencies' internal procedures and, consequently, cannot provide guidance on how these agencies implement certain provisions of FAST-41 or OFD. We will continue to work with other federal agencies to address these issues.

Commission staff continue to look for opportunities to piggyback on other agencies' established meetings/workshops to provide FAST-41 and OFD-specific training. This approach helps ensure that the appropriate staff will be in attendance and minimize the use of agencies' resources. Commission staff have already coordinated with other federal agencies to schedule training events in FY 2020.

BP viii-1: Identify measures planned or taken by the Agency in the outreach section of the CPP to increase the probability of reaching the stakeholders for stakeholder engagement (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).

Commission staff employ multiple stakeholder engagement methods when processing applications for infrastructure projects. The Commission’s web-based [eLibrary](#) system serves as the docket and allows agencies and other stakeholders to track submittals and issuances for specific projects and proceedings. In addition to the search capabilities in eLibrary, the system allows agencies and other stakeholders to subscribe to project-specific email notifications ([eSubscription](#)), submit filings electronically ([eFiling](#)), and submit comments electronically ([eComment](#)) throughout the review process.

For all covered projects under FAST-41, Commission staff in the Office of Energy Projects coordinate with the Office of External Affairs to plan and implement additional stakeholder engagement and notification tactics. This includes various notifications and postings on the Commission’s website, calendar, and social media, including Facebook and Twitter. For both the Jordan Cove Project and the Alaska LNG Project, relevant screenshots of and links to these outreach methods are included at the end of the respective CPPs. Commission staff will continue this practice for covered projects moving forward.

BP viii-2: Identify and share information on past and planned efforts to improve the ERA processes and performance metrics by Agencies sharing lessons learned during Interagency Working Group meetings and success stories during Permitting Council councilmember meetings.

Commission staff presented on outreach-related lessons learned at the August 6, 2019 working group meeting.



Lessons Learned Best Practice viii-2

August 6, 2019



Improving the Environmental Review and Authorization Process

- FERC outreach
 - Project-specific agency meetings
 - Interagency meetings
 - Seminars/training opportunities





Project-Specific Agency Meetings

- Early in the project review process, FERC staff holds regular calls with other agencies involved in project permitting
 - Coordinated by FERC project or deputy project managers and contractors
 - Enables staff-to-staff communication on a regular basis
 - Encourages early identification of issues



Interagency Meetings

- FERC staff holds bi-annual interagency meetings with our federal agency partners regarding program-level topics
- Last one held on July 17, 2019
 - Topics included:
 - Pre-filing process
 - Interagency coordination
 - Resources for applicants
 - Training opportunities and new developments



FERC Seminars

- Regular training seminars are held for contractors, agencies, and applicants
- Common topics include:
 - Introduction to FERC
 - Pre-filing process
 - Application and NEPA review
 - Commission decision and Implementation Plan
 - Construction and restoration activities



Training Opportunities

- Upcoming FERC seminars
 - August 6-8, 2019, in Providence, RI
 - December 10-12, 2019, in Seattle, WA (registration opens October 1)
- INGAA Foundation is hosting its eighth FERC 201 Workshop on August 27, 2019, in Washington, DC
 - Topics to include OFD implementation, strategies to help synchronize various environmental review processes, and key information on industry practices

**An Analysis of the Feasibility of HUD's
Tribal Directory Assessment Tool (TDAT)
To Become a
Government-Wide Tribal Contact Database**

Submitted to the Office of Environment and Energy
U.S. Department of Housing and Urban Development
July 10, 2019

Executive Summary

HUD's Tribal Directory Assessment Tool (TDAT) is an online database originally developed to assist HUD staff and grantees in identifying tribes to consult with in the Section 106 review process under the National Historic Preservation Act. It provides contact information for Tribal Leaders and Tribal Historic Preservation Officers (THPOs), identified by counties of tribal interest. A user can enter a street address or county and TDAT provides the contact information for tribes interested in that location. As a standalone research tool, TDAT has proven to be very useful. However, it is not without its shortcomings. In the spring of 2019, a team from HUD's Management Development Program (Team) undertook a study of how TDAT could be enhanced to better meet the needs of its current audience and how it might become a federal-wide tool that could benefit a larger audience. With some enhancements and other considerations, TDAT has the potential to become a single centralized tribal contact database that would increase the transparency, accountability, and predictability of federal tribal consultation practices. The question of how this could be accomplished became the driving force behind our Team's research.

A collective decision was made to conduct a feasibility study to determine how many federal agencies utilized TDAT in identifying tribes to consult with in Section 106. The Advisory Council on Historic Preservation's (ACHP) website was used to obtain a list of Federal Preservation Officer (FPO) agency contacts. Fifty-one (51) federal agencies were contacted as part of the outreach process and forty (40) provided detailed responses on their tribal consultation needs and processes in Section 106.

TDAT improvements suggested by federal agencies during the outreach process can be categorized into three major themes that will be explored within this report:

- Theme #1: Increase the Accuracy of TDAT Data
- Theme #2: Add Mapping Functionality
- Theme #3: Add Other Tribal Data

An analysis of the research revealed that due to the severely limited resources available at HUD, the large-scale solutions that TDAT would require to fully address the needs and concerns of federal agencies, may not be feasible in the short term. As a result, our Team proposes a series of short-term, mid-term, and long-term strategies developed to address the major themes identified as outlined in this report:

Strategy #1: Develop Process for Regularly Updating TDAT Data

Strategy #2: Mapping Functionality

Strategy #3: Adding other data to TDAT

As part of our goal to address the short- and medium-term strategies that were identified, we have determined that data development/maintenance, along with management of the TDAT system, should serve as top priorities. Specifically, we recommend the development of an editing tool for TDAT and an automated tool to synchronize the tribal contact data in TDAT with other publicly available tribal contact

databases. We also recommend the hiring of one full-time employee (FTE) to function as the TDAT Manager. Additionally, several important questions need consideration as they relate to the tactical approach of preparing TDAT to become a federal-wide research tool. The answers to these questions and other considerations, as well as our Team's final recommendations, are outlined within the body of this report.

Background

TDAT is a publicly available on-line database developed by HUD's Office of Environment and Energy (OEE) and the Office of Policy Development and Research (PDR) to help users identify tribes that may have an interest in a federally-assisted project. TDAT links federally recognized tribes' geographic areas of current and ancestral interest down to the county level and provides contact information for tribal leaders and Tribal Historic Preservation Officers (THPOs), which can assist users with initiating Section 106 consultation under the National Historic Preservation Act (54 U.S.C. § 300101 et seq.). Under the Section 106 review process (36 CFR 800) for historic resources, federal agencies are required to consult with federally-recognized Indian tribes on projects that may affect historic properties of religious and cultural significance to tribes. Federal agencies and their grantees must consult with tribes to determine whether a proposed project may adversely affect historic properties of religious and cultural significance, and if so, how the adverse effect could be avoided, minimized or mitigated. In order to initiate Section 106 consultation, it is necessary for agencies to identify the federally-recognized tribes with an interest in the project area. Researching ancient tribal occupation of a project location is onerous, time-consuming and prone to omission. While other tribal contact databases and resources do exist, TDAT is the only publicly available database that identifies a tribe's counties of interest. TDAT is also unique in that it utilizes current or ancestral interest data provided directly by the tribes.

Benefits of a Government-wide Tribal Contact Database

A single centralized tribal contact database would further the current administration's goal of increasing the transparency, accountability, and predictability of the federal environmental review process for infrastructure projects. As part of the President's initiative on infrastructure, the Federal Permitting Improvement Steering Council's (Steering Council's) 2018 Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects included creation of a tribal database that would be available across the federal government.

In addition, in April 2019, the Government Accountability Office (GAO) released a report titled "Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects (GAO-19-22)." The report examines key factors Indian tribes and select federal agencies identified that hinder effective consultation on impacts to natural and cultural

resources on infrastructure projects and makes recommendations for improvements. As part of this effort, GAO examined laws, regulations, and policies and interviewed officials from 21 federal agencies that are generally members of the Federal Permitting Improvement Steering Council (FPISC), including the ACHP. This GAO report made a number of recommendations intended to improve tribal consultation, including that FPISC and its members should work collaboratively to develop a plan to establish a central information system for identifying and notifying tribes that: (1) includes well-defined goals for the system, (2) specifies FPISC members' roles and responsibilities for establishing and maintaining the system given existing statutory authority, and (3) identifies resources required for developing and maintaining the system.

The lack of accurate information on federally recognized tribes delays project approvals and can lead to controversy and legal action when tribes only learn of projects late in the process. A shared tribal contact database would improve consistency between federal agencies in terms of their tribal outreach and would increase the likelihood that project materials reach the appropriate point of contact at a given tribe.

Outreach to Federal Agencies

The Team conducted a study to determine how many federal agencies utilized HUD's TDAT in identifying tribes to consult with in the Section 106 process. ACHP's website was used to obtain the contact information of Federal Preservation Officers (FPO) at various federal agencies. FPOs are the agency officials most directly responsible for an agency's participation in Section 106. In selecting agencies to contact as part of this study, a number of factors were considered, including agencies that:

- Provide grants for community development, housing, farms, and roads;
- Granted permits for energy transmission and infrastructure projects;
- License nuclear facilities and banks; and
- Manage government property (buildings and lands).

Once the agency contact list was ranked and prioritized, the Team contacted and interviewed the designated FPO representative. The purpose of this outreach was two-fold: 1) to gather information on the various agencies' tribal consultation needs and processes; and 2) to identify the specific features and tools that would need to be included in a centralized database in order to meet the tribal consultation needs and requirements of the different agencies. During the interview process, agency contacts were asked some of the following questions:

- Have they ever heard of TDAT?
- Do they use TDAT or some other database for tribal consultation?

- For what purpose(s) was TDAT or other database utilized (Section 106, infrastructure planning, permitting, etc.)?
- How could the current TDAT database be improved?
- What additional database functions would be useful?
- Does their agency do project planning in a GIS environment?

Findings

Fifty-one (51) federal agencies were contacted as part of the outreach process and forty (40) provided detailed responses on their tribal consultation needs and processes. Agencies were asked what resources they currently used as part of their Section 106 consultation process and the following resources were identified:

- TDAT
- Data made available by the Department of Interior (DOI)/National Parks Service (NPS) and Bureau of Indian Affairs (BIA)
- Data provided by State Historic Preservation Officers (SHPO)
- USDA/Forest Service Tribal Connections
- FCC Tower Construction Notification System (TCNS)
- Google

Because this study aims to determine the feasibility of using TDAT as the basis of a government-wide tribal contact database, HUD sought to assess existing TDAT usage among the different federal agencies. A summary of current usage is outlined below:

- Of the 40 agencies interviewed, 24 agencies regularly utilize TDAT for their tribal consultation needs.
- A majority (over 75%) of the 16 agencies that do not currently use TDAT are familiar with it.
- TDAT usage varies significantly by agency. Of the 24 agencies that utilize TDAT:
 - ❖ 37% use TDAT daily
 - ❖ 21% use TDAT 1-3 times per week
 - ❖ 12% use TDAT 1-3 times per month
 - ❖ 30% use TDAT several times per year
- According to usage statistics compiled by HUD's Office of Policy Development and Research (PDR), in 2018, TDAT had approximately 950 unique users per month with each user averaging approximately two sessions per month.

The various agencies were then asked to provide a list of potential improvements or enhancements that would make TDAT more useful for their tribal consultation purposes. These improvements can be classified into three major themes:

- **Theme:** *Increase the Accuracy of TDAT Data.* Eighty percent (80%) of the agencies interviewed indicated that the tribal contact data in TDAT needed to be updated more frequently.
- **Theme:** *Add Mapping Functionality to TDAT.* A number of agencies who do not currently use TDAT indicated that they would if they could query tribal data by drawing an Area of Potential Effect (APE). Forty-three percent (43%) of agencies interviewed requested the addition of GIS and mapping capabilities to TDAT.
- **Theme:** *Include Other Tribal Data.* Agencies discussed the possibility of expanding TDAT to make it useful for tribal consultation beyond the requirements of the Section 106 process. Thirty-eight percent (38%) indicated a desire for TDAT to include additional tribal data.

Analysis of Proposed TDAT Enhancements

As mentioned in the previous section, TDAT improvements suggested by federal agencies during the outreach process can be categorized into three major themes. Agencies were also asked to identify which of the improvements were critical to TDAT's usability. The themes were then ranked in order of priority based on the number of agencies requesting them and the number of agencies identifying them as critical.

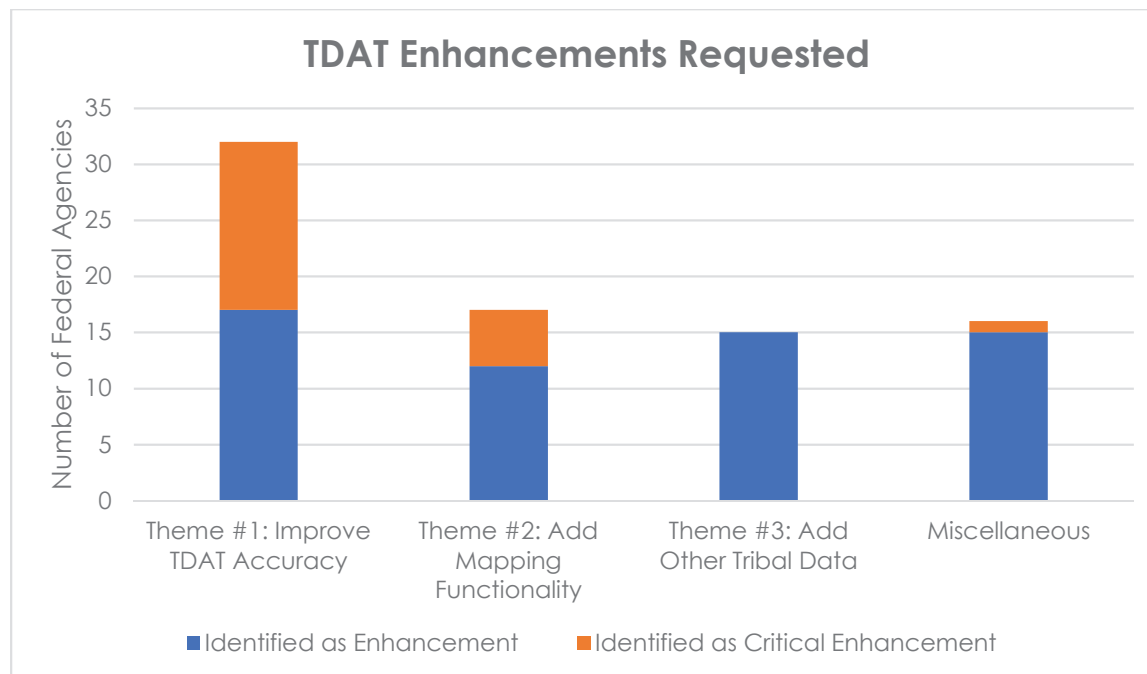


Figure 1: Summary of TDAT Enhancement Requested

Theme #1: Increase the Accuracy of TDAT Data

Improvements within this category were the most requested by federal agencies. A total of 32 agencies requested improvements related to increasing the accuracy of TDAT data; 15 of these agencies identified these improvements as critical to the usability of TDAT (Figure 1). Specific requests made by agencies include:

- Update tribal contact data on a more frequent basis.
- Include a date stamp on the bottom of each page of the tool, or a statement notifying the viewer that the tribal data is current as of XX-date.
- Eliminate repeats in returned results and export when multiple counties are selected.
- Make it easier for TDAT users to submit updated contact information.

Agencies expressed frustration at having to check multiple sources to verify the accuracy of tribal contact data and the wasted time associated with sending communications to tribal leaders who were no longer in elected office or had moved their offices to another location. Due to limited HUD resources, TDAT data has not been updated on a regular basis. The last comprehensive update to TDAT was completed in 2015-2016 and several smaller updates were done through the Fall of 2017. HUD's eGIS support contract which included posting updates to TDAT ended in March 2018. Many agencies noted that in order to be an effective and efficient tribal consultation tool, TDAT data would ideally be refreshed on a quarterly basis.

Theme #2: Add Mapping Functionality

While significantly fewer agencies (17 agencies) identified improvements in this category, a number of agencies noted that the lack of mapping functionality was currently preventing them from using TDAT as a tribal consultation resource. A handful of agencies (5 agencies) identified improvements within this category as critical to the usability of TDAT (Figure 1). Specific requests made by agencies include:

- Add a drawing tool feature that would allow users to draw areas of interest/areas of potential effect (APE).
- Enhance zoom function to provide users the ability to view smaller areas within a county.
- Make base maps visible to TDAT users.
- Ability to select points of interest and map a radius.

Some agencies noted that they would begin using TDAT, or would use it more consistently, if TDAT had the ability to query tribal data by drawing in an APE because the nature of their projects (i.e. large-scale, linear, marine-based, etc.) made it difficult to query data by selecting a specific county or identifying a physical address.

Theme #3: Add Other Tribal Data

Fifteen agencies suggested adding additional tribal data to TDAT to increase its usefulness for tribal consultation purposes beyond the Section 106 process. These improvements were primarily suggested as bonus enhancements; no agency identified improvements within this category as critical to TDAT's usability (Figure 1). Specific requests made by agencies include:

- Add information from other databases (BIA, ONAP database, State designated tribes, BLM, NAGPRA).
- Include additional contacts (SHPO, federal district courts, environmental and public affairs contacts).
- Add other tribal interests (marine rights, fishing rights, treaties, lands located in trusts, lands where tribes have judicial claims, commonwealths, and other non-state areas where Section 106 applies).
- Expand search results to include non-federally recognized tribes.

Strategy

Because of the severely limited resources available at HUD, the large-scale solutions TDAT would require to fully address the needs and concerns of federal agencies may not be feasible in the near term. As a result, a series of short-term, mid-term, and long-term strategies were developed to address the requested TDAT improvements identified in the previous section. For improvements identified as critical to the usability of TDAT, short-term work-arounds were developed to provide a temporary fix to the issue. Longer-term strategies were then outlined to provide an eventual permanent solution.

Strategy #1: Develop Process for Regularly Updating TDAT Data

Short-Term

HUD's Office of Environment and Energy (OEE) is in the process of completing a comprehensive manual update of TDAT's tribal contact data. TDAT data will be updated with data from the following datasets:

- National Park Service (NPS) THPO database
- Bureau of Indian Affairs (BIA) Tribal Leader database

A process for periodically refreshing TDAT with data from HUD's Office of Native American Programs (ONAP) Tribal Leader database is also currently being explored.

Timeframe:

- ✓ *Comprehensive update scheduled for Summer 2019.*

Mid-Term

Currently, updating TDAT data involves a time-consuming process of making edits to a master spreadsheet and running a series of scripts to push the changes to the online TDAT dataset. Utilizing this method, TDAT data can only be updated periodically as part

of a batch process. HUD's Office of Policy, Development and Research (PDR) is in the process of developing an ArcGIS Online (AGOL) editing tool which would allow for more efficient updates of tribal contact data. Once the editing tool is completed, updates to tribal contact information can be made to AGOL data on an ad hoc basis. PDR will also develop a data processing method to sync AGOL data with TDAT so that manual updates made to AGOL will be carried over to TDAT.

Timeframe:

- ✓ *Editing tool expected to be completed by Fall 2019.*
- ✓ *Data processing method to be developed by Winter 2019.*

Long-Term

Updating tribal contact data using the AGOL editing tool would still require periodic syncing between the AGOL and TDAT datasets. TDAT will eventually need an enhancement built in that will allow HUD users to make real-time updates to tribal contact information directly to the TDAT dataset. A request for IT funds was submitted to HUD's Office of Chief Information Officer (OCIO) in May 2019; similar requests in recent years have not been funded. Based on the findings of this study, a request for IT funds was also submitted to the Federal Permitting Improvement Steering Council (FPISC) in May 2019. The FPISC proposal requested IT resources for the following items:

- ✓ Development of an automated synchronizing tool to import and reconcile tribal contact data from BIA and NPS and post to TDAT.
- ✓ Development of TDAT application to allow the TDAT Manager to make ad hoc changes to TDAT.
- ✓ Development of an on-line form for tribes and the public to submit updates to TDAT.
- ✓ Modification of TDAT display to include date stamp.
- ✓ Modification of TDAT data export to eliminate redundancy in returned results.
- ✓ Addition of data field to TDAT that would allow HUD user to enter consultation protocol or additional notes for specific tribe.
- ✓ Dedicated FTE resource for the management of the TDAT system.

Timeframe:

- ✓ *Following availability of funds, award of IT funds expected to occur within 3 months.*
- ✓ *Upon award of IT funds, selection of IT contractor expected to occur within 3 months.*
- ✓ *Software development expected to take approximately 3 months.*

Strategy #2: Mapping Functionality

Short-Term

PDR published the TDAT dataset as a GIS shapefile on the HUD eGIS Storefront in March 2019. The shapefile is accessible at: <http://hudgis-hud.opendata.arcgis.com/>. The data made available on the HUD eGIS Storefront allows for TDAT mapping data to be exported by interested parties and incorporated into other web applications. The publication of the TDAT dataset will allow those federal agencies and users with GIS and web application development capabilities to import the data and use it for their own mapping needs. It should be noted, however, that the dataset is current only as of 2016/17 and is static.

Timeframe:

- ✓ *TDAT County feature layer (GIS shapefile) made available in March 2019.*

Long-Term

While making TDAT data available to the public will allow some users to access limited mapping functionality, only users with significant GIS and web development knowledge would be able to utilize these capabilities. Enabling access to mapping tools for all TDAT users would require the mapping functionality to be built directly into TDAT. A request for IT funds was submitted to HUD's PDR and the Federal Permitting Improvement Steering Council (FPISC) in May 2019. These proposals requested IT resources for the following items:

- ✓ Enhancement of TDAT to allow users to zoom in to a specific area and manually select a county (or counties) of interest.
- ✓ Enhancement of TDAT to allow users to query data by manually drawing in an Area of Potential Effect (APE).

Timeframe:

- ✓ *Following availability of funds, award of IT funds expected to occur within 3 months.*
- ✓ *Upon award of IT funds, selection of IT contractor expected to occur within 3 months.*
- ✓ *Software development expected to take approximately 3 months.*

**Note that this would be part of the same software contract as Strategy #1.*

Strategy #3: Adding other data to TDAT

Long-Term

The expansion of TDAT beyond what is required as part of the Section 106 process was not categorized as critical to the system's usability. Therefore, only a long-term strategy was explored to address this theme. After TDAT improvements related to enhancing the accuracy of data and adding mapping functionality are adequately addressed and

fully implemented, additional resources that can be used to expand TDAT beyond its current scope will be explored.

Timeframe:

- ✓ *Explore the possibility of entering into an interagency agreement with one or more federal agencies with the goal of expanding TDAT.*
- ✓ *Identify potential agencies or organizations with the capacity and resources to take over, expand and maintain TDAT.*

Implementation

In keeping with our goal of addressing the short- and mid-term strategies outlined above, we have determined that data development and maintenance, along with management of the TDAT system, would serve as our top priorities. Below, we have addressed several important questions as they relate to the project, namely – What enhancements are included within the data development and maintenance strategy? Who will be responsible for managing the Tribal Directory Assessment Tool (TDAT)? How will it be funded? Where will TDAT be housed?

With all the feedback received regarding enhancement suggestions and the required ongoing maintenance of the tool, we recommend that (1) FTE, IT staff position located at HUD Headquarters, be created to carry out these tasks. TDAT was built within the HUD eGIS system and would need to be recreated if TDAT was moved to another agency. HUD's firewall would prevent another agency from managing TDAT externally. The responsibilities of the TDAT Manager would include, but is not limited to: performing software updates and maintenance of the data, quality control, system security, ongoing 508 compliance, managing the sharing of TDAT GIS layers, and managing the development of the other data development and maintenance enhancements listed below.

Data development and maintenance of TDAT includes a number of software improvements and a short summary for each enhancement can be found below.

- ✓ **Develop synchronizing tool to import and reconcile datasets from Bureau of Indian Affairs (BIA) and National Park Service (NPS) and post to TDAT.** This synchronizing tool would allow the TDAT Manager on a quarterly basis to compare the BIA and NSP datasets with existing TDAT data and merge any new data into the TDAT master Excel file and post to TDAT.
- ✓ **Developing editing tool for individual updates.** The editing tool would be similar to the ARCGIS online editing tool. This tool would allow the TDAT Manager to manually enter changes to tribal leadership/THPO or county of interest information for a single tribe. Information for new tribes could be added immediately.

- ✓ **Develop on-line form for submitting updates.** A link to an online form would be included on the tool for tribes and other users to submit changes. The TDAT Manager would certify/approve any suggested changes. This would provide the user the ability to recommend data updates quickly, enhancing the accuracy and user friendliness of the tool.
- ✓ **Modify display to include date stamp.** When using the tool, all results, exported/queried would include a 'last updated/time stamp' so that users know how current the data is they are viewing. At that time if a user identified outdated data, they could use the link to the online form listed above to suggest an update.
- ✓ **Modify 'Export' feature to eliminate redundancy in display results.** Currently, when a user queries data from multiple counties, a single tribe may be listed multiple times if they have expressed interest in more than one county. The logic in the query would be modified so that a single tribe only appears once in the results along with all the counties of interest to them.
- ✓ **Add data field for consultation protocol notes.** This would allow the TDAT Manager to add additional notes next to a particular tribe (emails only, no FEDEX, no phone calls, etc.) Tribes would be able to submit via the online form which protocols they would like followed with regards to communication.

Enhancing TDAT's mapping functionality includes additional software improvements and a short summary of these enhancements can be found below.

- ✓ **Allow for manual selection of county (or counties) of interest.** This enhancement would allow users to zoom in to a specific area and manually select a county (or counties) of interest. TDAT settings would also be altered so that underlying base map layers (i.e. county boundaries, roads, rivers and other bodies of water, etc.) would be made visible to TDAT users.
- ✓ **Development of drawing tool for TDAT.** This enhancement would allow users to query data by manually drawing in an Area of Potential Effect (APE).

Cost

We recognize that with any suggested enhancement to an existing product, costs are going to be important especially when they involve governmental budgets. For the continued management of the tool itself, we recommend that the (1) FTE HUD IT position that was recommended above, be staffed at a GS-13 level or higher. The estimate for covering the data development and maintenance enhancements would be \$315,000. The estimate for developing the mapping functions would be \$210,000. The work could be carried out under one software development contract for a total of \$525,000. These figures represent rough order of magnitude costs and would be refined in further analysis prior to implementation.

Interagency Cooperation

This analysis has been undertaken with the assistance of multiple federal agencies and departments within HUD. Going forward if there is continued cross-departmental/agency cooperation, an interagency agreement may be something to explore.

Government agencies routinely support each other in the execution of their duties. Because they are governed by different departments and have different funding sources, a written agreement is necessary to define the roles that two agencies play in their collaborative efforts. An interagency agreement spells out the reason for the collaboration, the time period it is in effect, the agencies or departments involved, payment considerations and delegation of authority to carry out the agreement. It can be written as a cooperative agreement, or an agreement where one or more agencies do work for others. Like a contract, the agreement contains a section indicating the exact work to be accomplished. It also includes a cost estimate of the funds required to carry out the work. Typical agreements include a memorandum of understanding, inter-service support agreement, government-wide agency contract and a cooperative research and development agreement.

Appendix A: Glossary

ACHP	Advisory Council on Historic Preservation
BIA	Bureau of Indian Affairs
DOI	Department of Interior
FPISC	Federal Permitting Improvement Steering Council
FPO	Federal Preservation Officer
GIS	Geographic Information System
MOA	Memorandum of Agreement
NATHPO	National Association of Tribal Historic Preservation Officers
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NPS	National Park Service
OEE	Office of Environment and Energy
PDR	Office of Policy Development and Research
PA	Programmatic Agreement
SHPO	State Historic Preservation Officers
TDAT	Tribal Directory Assessment Tool
THPO	Tribal Historic Preservation Officer

Appendix B: Federal Agencies Contacted

Air Force	U.S. Fish and Wildlife Service
Army	United States Coast Guard
Army Corps of Engineers	United States Customs and Border Protection
Bureau of Indian Affairs	Western Area Power Administration
Bureau of Land Management (BLM)	United States Postal Service
Bureau of Ocean Energy Management (BOEM)	Department of Veterans Affairs (VA)
Bureau of Reclamation	Federal Deposit Insurance Corporation
Department of Defense	General Services Administration (GSA)
Department of Energy	Small Business Administration
Department of Homeland Security	National Capital Planning Commission
Department of the Interior	National Oceanic and Atmospheric Administration
Department of the Navy	National Park Service
Department of Transportation	Nuclear Regulatory Commission
Environmental Protection Agency	Office of Surface Mining
Farm Service Agency (FSA)	Pipeline and Hazardous Materials Safety Administration
Natural Resources Conservation Service (NRCS)	Rural Housing Service
Federal Aviation Administration	Rural Utilities Service
Federal Communications Commission	Department of Justice (DOJ)
Bureau of Safety and Environmental Enforcement	Department of Housing and Urban Development (HUD)
Federal Energy Regulatory Commission	
Federal Highway Administration (FHWA)	
Federal Railroad Administration	
Federal Transit Administration (FTA)	
Forest Service	
Marine Corps	
Maritime Administration	
National Aeronautics and Space Administration	
Federal Emergency Management Agency (FEMA)	

Appendix C: Acknowledgements

A team of candidates from HUD's 2018 - 2019 Management Development Program (MDP) chose to assist the Office of Environment and Energy (OEE) in further developing the Tribal Directory Assessment Tool (TDAT), as part of their Action Learning Project requirement. TDAT is an online tool that assists in involving Indian Tribes in the Section 106 Historic Preservation process. MDP is a competitive 12-month leadership and management program designed to facilitate HUD's succession planning efforts by developing a cadre of future leaders. MDP candidates are a cross section of mid-level HUD employees who bring a wide range of technical expertise and experience to the Program. The MDP Team conducted critical research activities, including data collection and assessment, and provide recommendations that will help OEE make key decisions regarding the future functionality and use of TDAT.

Members of the MDP Team include:

- **Carla Burnett**, Senior Underwriter, Single Family Homeownership Center, Atlanta
- **Donna Dudgeon**, Senior Account Executive, Multifamily Southeast Region, Atlanta
- **Jeffrey Heimerl**, Community Planning and Development Representative, Office of Community Planning and Development, Kansas City
- **Kimberly McMorris**, Administrator Advisor, Eastern Woodlands Office of Native American Programs, Chicago
- **Jessica Suimanjaya**, Affordable Housing Specialist, Office of Affordable Housing, Washington DC

OEE served as the Project Sponsor for this effort. Special thanks to Nancy Boone, HUD's Federal Preservation Officer, for her many dedicated hours of guidance.

PDR provided essential technical guidance and support for this project and recognition should also be given to the following PDR staff: Todd McNeil, Ted Payne, Kathleen Cheeseman, and Rob Renner.

National Parks Service staff and their innovative Horizons project also deserve special acknowledgement as does the FPISC White Paper, which provided the basis for this feasibility study.

Appendix D: Other Tribal Contact Databases

In addition to TDAT, a number of other tribal contact databases maintained by various federal agencies were considered for a government-wide tribal contact database.

U.S. Forest Service Tribal Connections: This online interactive mapping tool shows how lands managed by the agency connect or overlap with current tribal trust lands and lands tribes exchanged with the federal government prior to 1900. While Tribal Connections includes some of the enhanced mapping capabilities currently missing from TDAT, Tribal Connections does not provide counties of interest data for specific tribes.

Federal Communications Commission Tower Construction Notification System (TCNS): TCNS allows companies to voluntarily submit notifications of proposed tower constructions to the FCC. The FCC subsequently provides this information to federally-recognized Indian Tribes, Native Hawaiian Organizations (NHOs), and State Historic Preservation Officers (SHPOs), and allows them to respond directly to the companies if they have concerns about a proposed construction. While TCNS enables the real-time referral of information and documented communication to federally-recognized tribes, the data is considered proprietary and is not publicly available.

Arizona Government-to-Government Consultation Toolkit (G2G Toolkit): This toolkit was designed to facilitate the consultation process for and among Tribes and State and Federal agencies meeting the requirements of the National Historic Preservation Act or State Historic Preservation Act, as well as other state and federal statutes. The G2G Toolkit contains agency and Tribal contact information, consultation protocol, Tribal claims maps, and quick links to Tribal and Agency pages for additional information. G2G was referenced in the GAO report as a successful tool, but is specific to the State of Arizona.

National Association of Tribal Historic Preservation Officers (NATHPO) Find a THPO website: Tribal Historic Preservation Officers (THPOs) are officially designated by a federally-recognized Indian tribe to direct a program approved by the National Park Service. THPOs must have assumed some or all of the functions of State Historic Preservation Officers on Tribal lands. NATHPO's *Find a THPO* website provides a list of all designated THPOs and their contact information by state. Tribal leaders are not included as part of this list.

National Park Service Native American Consultation Database (NACD): NACD is a tool for identifying consultation contacts for Indian tribes and Native Hawaiian organizations. The database is not a comprehensive source of information, but it does provide a starting point for the consultation process by identifying tribal leaders and NAGPRA contacts. As of 2019, NACD is being replaced and is no longer available.

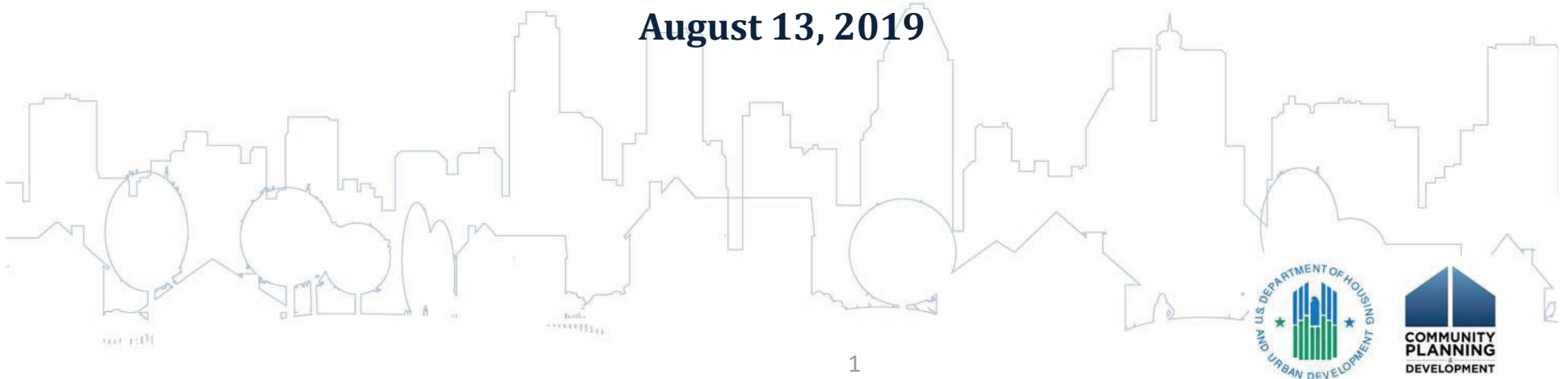
Unites States Geological Survey Indian Lands of the United States Map: This map shows areas of 640 acres or more, administered by the Bureau of Indian Affairs, including federally-administered lands within a reservation which may or may not be considered

part of the reservation. This map identifies lands held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. It does not provide counties of interest data for specific tribes.

Tribal Directory Assessment Tool (TDAT)

Update for Federal Permitting
Improvement Steering Council

August 13, 2019



Feasibility Study

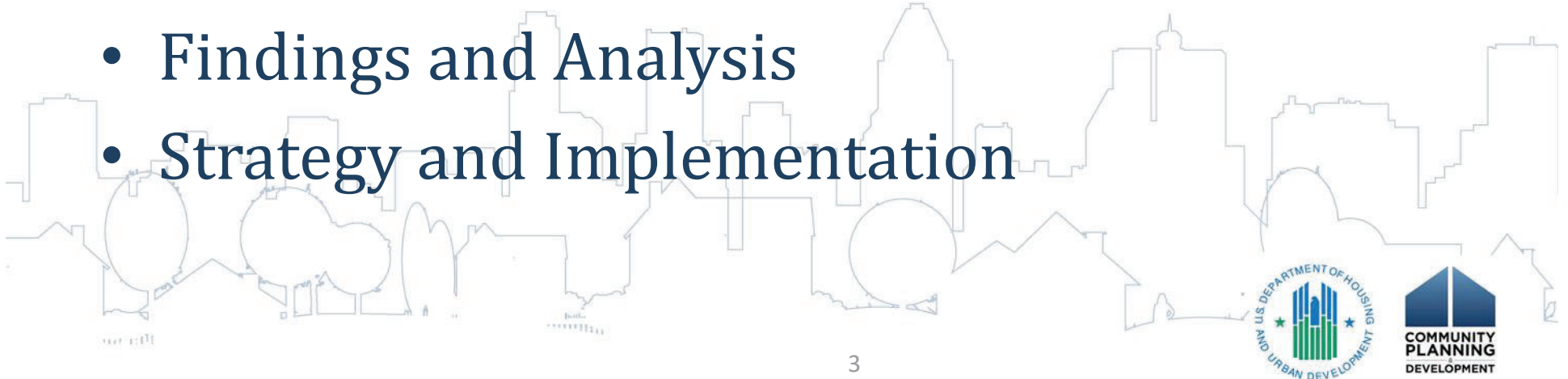
**An Analysis of the Feasibility of HUD's
Tribal Directory Assessment Tool (TDAT)
To Become a
Government-Wide Tribal Contact Database**

Submitted to the Office of Environment and Energy
U.S. Department of Housing and Urban Development
July 10, 2019



Feasibility Study

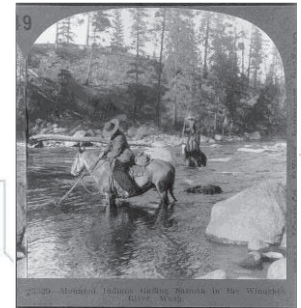
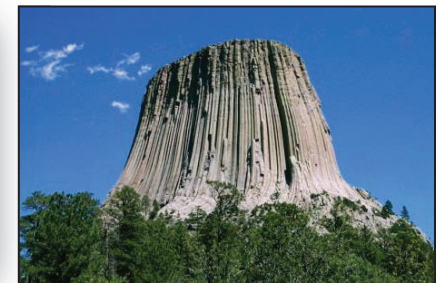
- Executive Summary
- Background
- Benefits of Government-wide Contact Database
- Outreach/Data Collection
- Findings and Analysis
- Strategy and Implementation



National Historic Preservation Act of 1966

- Requires consultation with Indian tribes (Section 106) on any project that may affect historic properties with religious or cultural significance, including:

- Archaeological sites
- Burial Grounds
- Ceremonial Areas
- Sacred Landscapes or Features
- Traditional Cultural Landscapes and Places
- Plant and Animal Communities
- Structures with Significant Tribal Association



Indian Tribes

- Consultation required ON and OFF tribal lands
- Tribes with current or ancestral interest
- Multiple tribes may have interest



Tribal Directory Assessment Tool (TDAT)

- Publicly available on-line database:
<https://egis.hud.gov/TDAT/>
- User enters project address and TDAT identifies federally recognized tribes with an interest in that location
- Provides contact information for:
 - Tribal Leaders
 - Tribal Historic Preservation Officers (THPOs)
- Only publicly available database that identifies counties of interest



Tribal Directory Assessment Tool (TDAT)

GIS Tribal Directory Assessment Tool (TDAT)

Click a state to show the county list.

Advanced Search Search by address... Menu

MONGOLIA CANADA SWEDEN FINLAND NORWAY UNITED KINGDOM GERMANY POLAND UKRAINE FRANCE ITALY GREECE TURKEY ALGERIA LIBYA EGYPT KAZAKHSTAN IRAN INDIA

Tribal Directory Assessment Tool (TDAT)

TDAT was developed by the Office of Environment and Energy (OEE) to help users identify tribes that may have an interest in the location of a HUD-assisted project, and provide tribal contact information to assist users with initiating Section 106 consultation under the National Historic Preservation Act (54 U.S.C. § 300101 et seq.).

Two key aspects of TDAT are its ability to:

- Link tribes' geographic areas of current and ancestral interest down to the county level, and
- Perform a variety of queries related to tribes.

State reports link tribes to their counties of interest in the particular state. Tribes may reside in or outside of that state. Check back frequently for updates. Click on any state below, choose one from the list at the bottom of the page or select a tribe from the drop-down control.

Search For Tribes

Option 1: Search by Address

451 7th Street S.W., Washington, DC 20410

Option 2: Select a Tribe

---Select One---

Option 3: Select by State/County

---Select One---

Search For Tribes

Close

POWERED BY esri

URBAN DEVELOPMENT CITY NG DEVELOPMENT

Benefits of Government-wide Database

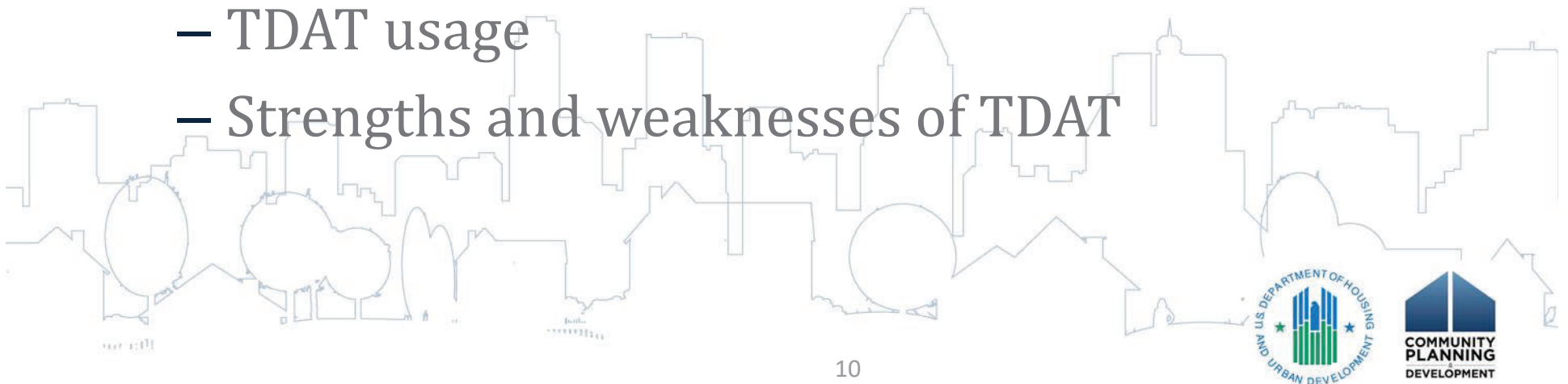
- Identify tribes with interest in a given location
- Increase timeliness, transparency and accountability of project reviews
- Decrease delays in project approvals
- Reduce controversy and legal action
- Improve consistency in tribal consultation and outreach

Administration Priorities and Recommendations

- **Federal Permitting Improvement Steering Council (FPISC)**
 - Creation of government-wide tribal database was 2018 recommended best practice for environmental reviews
- **Government Accountability Office (GAO) 2019 Report**
 - Recommended that FPISC develop plan for establishing a central information system for identifying and notifying tribes

Outreach and Data Collection

- Study team contacted Federal Preservation Officers of 51 federal agencies
 - Responses collected from 40 agencies
- Collected information on:
 - Section 106 resources and consultation process
 - TDAT usage
 - Strengths and weaknesses of TDAT



Findings and Analysis

- 60% of agencies interviewed currently use TDAT
 - 37% use TDAT daily
 - 21% use TDAT 1-3 times per week
- TDAT has approximately 950 unique users per month with each user averaging approximately two sessions per month.

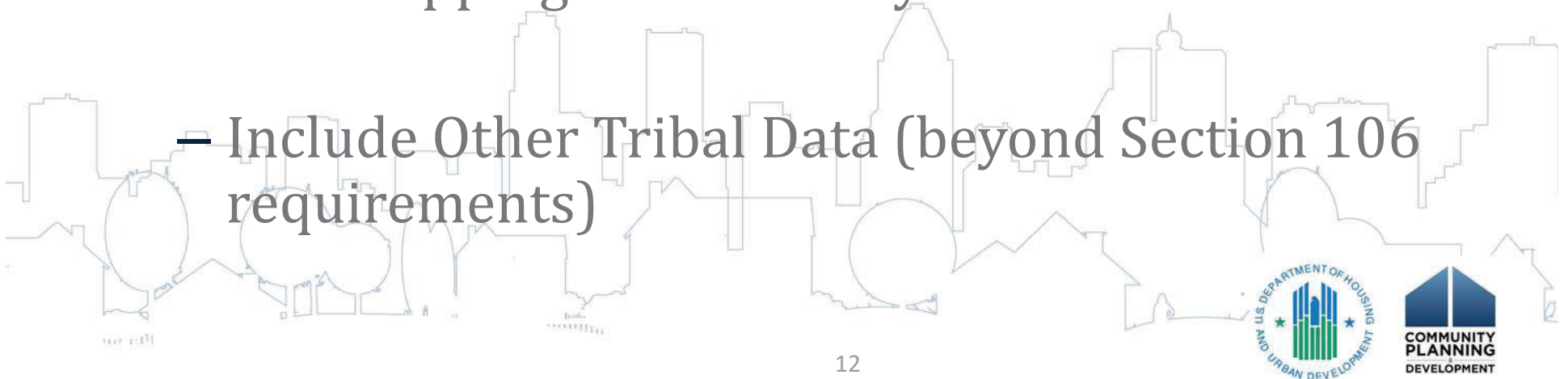
Findings and Analysis

- Agencies provided list of suggested TDAT improvements and enhancements

- Increase the Accuracy of TDAT Data

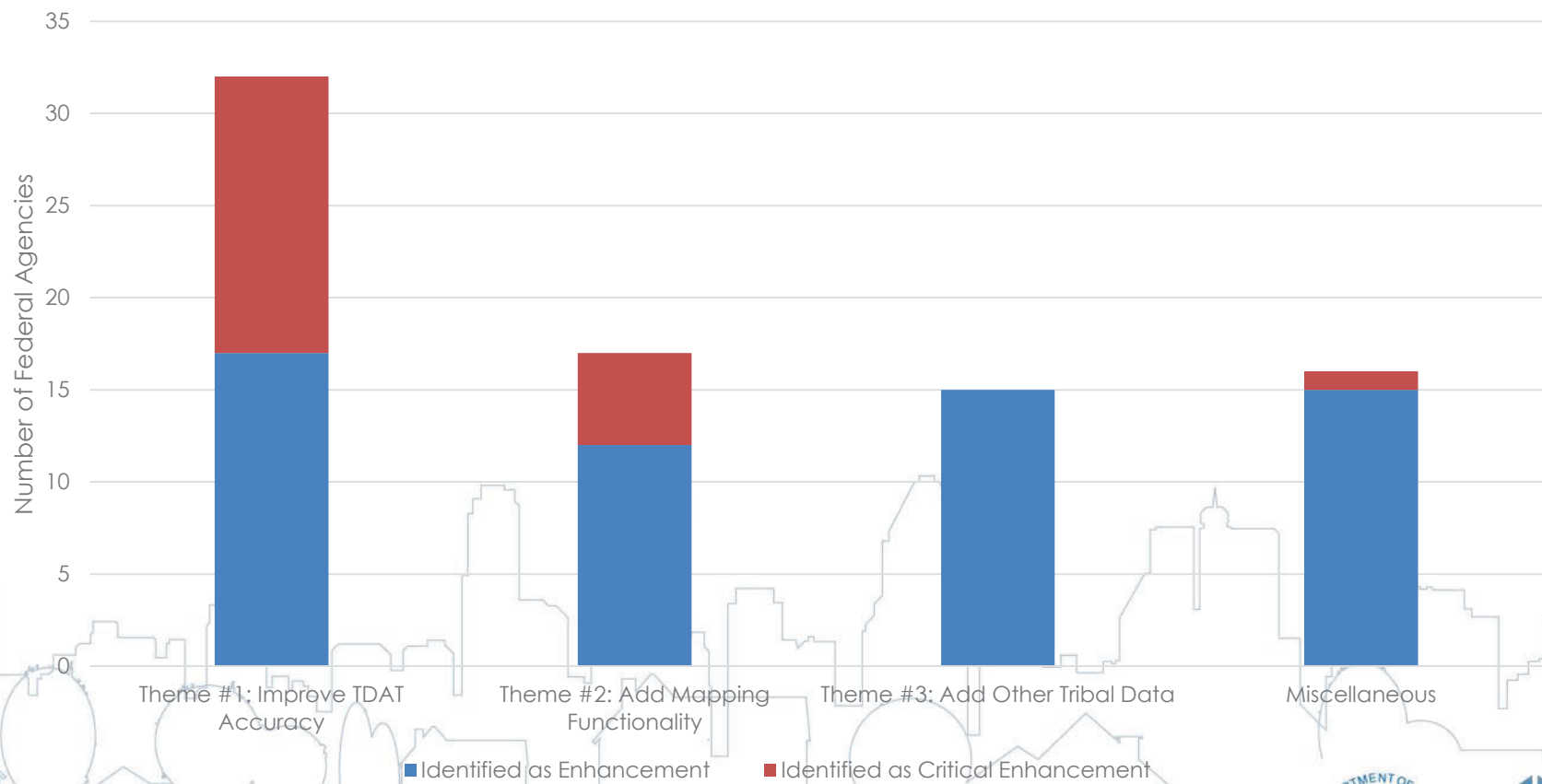
- Add Mapping Functionality to TDAT

- Include Other Tribal Data (beyond Section 106 requirements)



Findings and Analysis

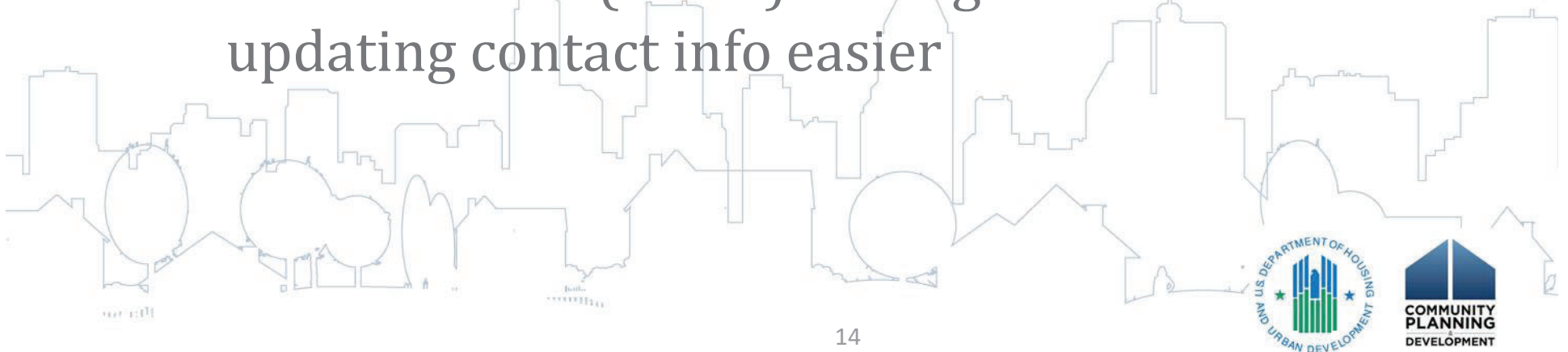
TDAT Enhancements Requested



Strategy #1

Goal: Improve accuracy of TDAT data

- Short-term
 - Comprehensive manual update
- Mid-term
 - ArcGIS Online (AGOL) editing tool to make updating contact info easier

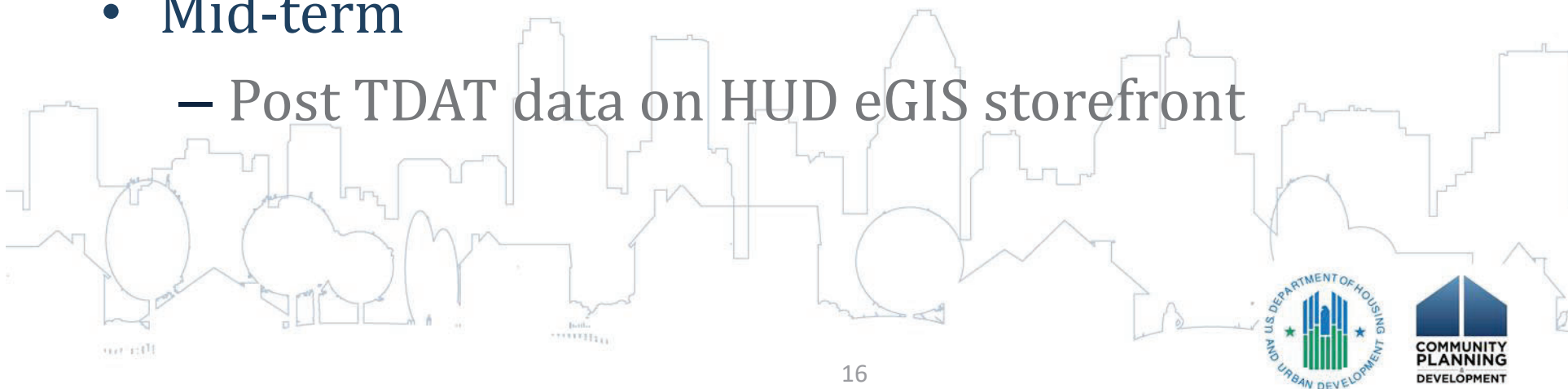


Strategy #1

- Long-term
 - Develop automated synchronizing tool to import and reconcile tribal contact data from NPS and BIA
 - Develop manual editing tool for ad hoc changes to contact data
 - Add data field for tribal consultation protocols
 - **Requires IT funds for development**
 - **\$315,000** (rough order of magnitude cost)
 - **Dedicated FTE resource for management of TDAT**

Strategy #2

- Goal: Add mapping functionality to TDAT
- Short-term
 - Share TDAT data with other federal agencies
- Mid-term
 - Post TDAT data on HUD eGIS storefront



Strategy #2

- Long-term

- Add map interface with geographic features and boundaries
- Develop user-friendly drawing tool to query TDAT by selecting areas or corridors on a map interface

- **Requires IT funds for development**

- **\$210,000** (rough order of magnitude cost)

- **Dedicated FTE resource for management of TDAT**



Implementation of Enhancements

- Accuracy of Data \$ 315,000
- Mapping Function \$ 210,000
- Dedicated 1.0 FTE for management of TDAT database development and ongoing maintenance



NRC Best Practice Responses

FY19 ARC Stage Assessment Indicator Questions: BP i-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

BP i-1: “The lead 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 lead agency may, but is not required to, use past experience to develop an initial list of stakeholder contacts. Lead agencies should solicit involvement of cooperating and participating agencies in the early stakeholder engagement as appropriate and allowed by applicable laws and regulations.”³

Per the FY19 BPAT (p. 8), your agency can choose to implement this BP program-wide (by environmental review/authorization (ERA) process) or by project.

- *If your agency chooses to implement this BP **program-wide**, fill out the below questions, including Question #4a (but not Question #4b).*
- *If your agency chooses to implement this BP on a **project basis** and had a **new** FAST-41 project since January 2019, your agency should fill out the below questions, including Question #4b (but not Question #4a).*
- *If your agency chooses to implement this BP on a **project basis** and had **no new** FAST-41 projects since January 2019 for which the project schedule*

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 8.

indicated a stakeholder engagement opportunity⁴, your agency should certify in the text box below that it had no opportunity to implement this BP.⁵

The NRC certifies that there was no opportunity to implement this BP in FY2019.

1. Does your agency have an established or existing process or procedure for conducting proactive⁶ stakeholder engagement that can be implemented for FAST-41 covered projects on a program-wide or a project-by-project basis?

If yes, please also provide the process document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

Yes.

Within NRC's code of federal regulations (CFR), 10 CFR 51.40 states that "A prospective applicant or petitioner for rulemaking is encouraged to confer with NRC staff as early as possible in its planning process before submitting environmental information or filing an environmental report."

The NRC routinely incorporates extensive outreach to external and internal stakeholders in conducting its regulatory actions. For example, the NRC has a publicly available document, NRO-REG-104, "Pre-application Readiness Assessment," for an applicant's and NRC staff's use in determining the content of an application and in evaluating components of an application for a permit or license: <https://www.nrc.gov/docs/ML1407/ML14079A197.pdf>. This document provides guidance on components of an application and the associated agencies and stakeholders that participate in such an application.

Additionally, NRC participated in the review and comment of NEI 10-07, "Industry Guideline for Effective Interactions With Agencies Other Than NRC During the Early Site Permit Process". This guidance emphasizes the importance of reaching out to federal, state, and local agencies, in addition to Tribes, to help identify any potential issues with permitting/consulting entities. This guidance is available at the following link: <https://www.nrc.gov/docs/ML1302/ML13028A392.pdf>

NRC has posted information on its public website (nrc.gov) related to the environmental review process, which includes summaries of the of the FAST-41 and E.O. 13807 implementation, links to max.gov, and a description of NRC's process for environmental

⁴ Under this BP, agencies should implement proactive stakeholder engagement. However, OED recognizes it may not be feasible to have productive stakeholder engagement before a certain point in the project development or design. The project schedule should identify the point at which the project is ready for proactive stakeholder engagement prior to the statutorily required stakeholder engagement.

⁵ Per the FY19 BPAT (p. 9), your agency may choose to receive a "**No Opportunity**" (N/O) assessment result if your agency "certifies that the lead agency's projects were past the point of ERA processes for early stakeholder engagement prior to the statutorily required early stakeholder engagement."

⁶ Per the FY19 BPAT (p. 8), "proactive" is defined as occurring before statutorily or regulatorily required.

reviews of new reactors and nuclear fuel cycle facilities. The webpages include information on NRC's actions prior to an application submittal which include contact with other Federal, state and local agencies, as well as holding public outreach meetings. <https://www.nrc.gov/reactors/new-reactors/regs-guides-comm/erp.html>

2. (Skip if response to Question #1 is yes) In FY19, did your agency begin or continue developing a process as described in Question #1?

N/A

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is no) Please describe how the process/procedure enables your agency to identify relevant stakeholders and the appropriate methods by which to reach them.⁷

NRC routinely publishes notices in the *Federal Register* and holds public meetings, on a variety of issues and lessons learned. The public meeting schedules and topics are routinely posted to the NRC's website (<https://www.nrc.gov/pmns/mtg?do=recent30days>). Additional web notices are posted for conferences and symposia, documents for comments, and for Commission meetings and adjudications (hearings). *Federal Register* notices are also used to notify members of the public and stakeholders of NRC actions including meetings, hearing and rulemakings.

NRC has an Outreach Compliance and Coordination Program (OCCP) that conducts outreach concerning issues related to environmental justice ([NRC: Outreach and Compliance Coordination Program](#)). Under the Environmental Justice Program, OCCP staff work with recipients of NRC Federal Financial Assistance, as well as with organizations and others with an interest in environmental justice issues that substantially affect human health or the environment (<https://www.nrc.gov/about-nrc/civil-rights/occp/environmental.html>). Within the OCCP, the Minority Serving Institutions Program (MSIP) funds minority-serving programs, activities, projects, symposia and training for the exchange and transfer of knowledge and skills relevant to nuclear safety, security, environmental protection.

The NRC has a communications website to assist staff in effectively communicating its messages. Assembled on the website are links to existing documents, to additional web resources with new sections created as needed for upcoming NRC actions and events.

⁷ Details could include stakeholder identification steps, a list of options for outreach methods, and communication records requirements.

The intent is to bring together all available resources to help make communication with both internal and external audiences easier, clearer and more successful.

<https://drupal.nrc.gov/comm>

The NRC also has an Office of Public Affairs, which assists the staff in identifying potential stakeholders. The public affairs professionals in this office are available for advice and consultation on a variety of issues, including communication plans, preparing for public meetings, and writing audience-appropriate print materials for the public.

Additional information on NRC's identification of relevant stakeholders is found in Question #1 above.

4. (Skip if response to Question #1 is **no**)

- a. If your agency chose to implement this BP on a **program-wide basis**, describe up to two proactive stakeholder engagement approaches that your agency used for ERA process(es) in FY19.⁸

Proactive Outreach Methods in FY19 for ERA Process #1:

NRC has held multiple advanced reactor stakeholder meetings in FY19. These meetings focus on potential regulatory improvements for advanced reactors (e.g., <https://www.nrc.gov/docs/ML1922/ML19228A263.pdf>). Advanced reactor stakeholder meetings were held June 27 and August 15, 2019 as listed on NRC's website, (<https://www.nrc.gov/reactors/new-reactors/advanced.html#stakeholder>), and continue to be held on a periodic basis. At these meetings, NRC solicits information from the stakeholders for potential improvements in regulatory processes.

Proactive Outreach Methods in FY19 for ERA Process #2:

See response to 4.a above for outreach methods.

- b. If your agency chose to implement this BP on a **project basis**, describe up to two proactive stakeholder engagement approaches that your agency used for new FAST-41 project(s) in FY19.⁹

Proactive Outreach Methods in FY19 for new FAST-41 Project #1:

No opportunity.

⁸ Listing more than one approach for each ERA process or program may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁹ Listing more than one approach for each FAST-41 covered project may demonstrate further progress in implementing the BP's intent to the OED assessors.

Proactive Outreach Methods in FY19 for new FAST-41 Project #2:

No opportunity.

5. (Skip if response to Question #1 is **no**) Was the implementation of the proactive outreach methods as described in Question #1 evaluated?¹⁰

No opportunity.

a. If yes, when and how was the effectiveness of your agency's new or existing/established methods assessed?

N/A

b. If yes, what were your agency's findings, and were potential improvements identified?

N/A

c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

N/A

¹⁰ This evaluation could be internal or external (not including evaluation by OED).

FY19 ARC Stage Assessment Indicator Questions: BP i-2

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

BP i-2: “The lead 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 lead 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).”³

1. Does your agency have an existing or established “pre-application/pre-official review process to allow project sponsors/applicants the opportunity to provide/communicate project-specific information to the lead agency and relevant other Federal agencies, Tribes, involved State agencies, and relevant local government entities prior to the initiation of official review processes (e.g., submission of application or other initiation of the ERA process)”⁴?

Yes.

The NRC has a regulation in its *Code of Federal Regulations* (CFR), 10 CFR 51.40, that

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 10.

⁴ FY19 BPAT, p. 10.

states, “A prospective applicant or petitioner for rulemaking is encouraged to confer with NRC staff as early as possible in its planning process before submitting environmental information or filing an environmental report.” NRC encourages early interaction with applicants in its regulations and its preapplication process as described below.

The NRC has a pre-application process for new reactor licensing that is contained in guidance documents for both NRC staff and applicants that involves periodic meetings to review and discuss the draft application. These interactions include meetings with stakeholders to discuss the upcoming application submittal and the NRC licensing process, updating guidance to incorporate lessons learned, and meetings with the Nuclear Energy Institute to discuss the schedule of any upcoming applications.

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing a process as described in Question #1?

The NRC continued developing a process for pre-application/pre-official review processes in FY2019 by revising Regulatory Guide (RG), “Applications for Nuclear Power Plants” (RG 1.206). This update of RG 1.206 provided updated guidance for prospective applicants regarding the format and content of applications for new nuclear power plants. The revision reflects the lessons learned regarding the review of nuclear power plant applications since 2007. A significant change included the addition of new guidance to applicants for standard design certifications (DCs) and early site permits (ESPs). RG 1.206 describes the early and frequent involvement of all affected federal, state, and local agencies in addition to NRC. This involvement is key to achieving issue resolution, not just for the purpose of obtaining a license or permit from NRC, but also in securing the various other permits and approvals that will be required to obtain a license or permit from the NRC.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).⁵

The final revision to RG 1.206 was issued in October 2018, so this effort has been completed.

3. *(Skip if response to Question #1 is no)* Summarize how the process described in Question #1 contains appropriate project application/review criteria and effectively communicates these criteria to potential project sponsors/applicants? *Please also provide the process document on MAX.gov or link below. For this and subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

⁵ Establishing a process as described in Question #1 would include creating criteria, establishing the process, and communicating the criteria to potential project sponsors/applicants (FY19 BPAT, p. 11).

Office instruction NRO-REG-104, “Pre-application Readiness Assessment” describes an application readiness assessment performed by NRC to (1) identify information gaps between the draft application and the technical content expected to be included in the final application submitted to the NRC; (2) identify major technical or policy issues that may adversely impact the docketing or technical review of the application; and (3) become familiar with the application, particularly in areas where prospective applicants are proposing new concepts or novel design features. The results of the NRC’s staff readiness assessment are communicated to a prospective applicant through the NRC’s Project Manager noting information gaps that may need to be remedied the application. In addition, NRC has established acceptance review processes including guidance, such as NRO-REG-100, “Acceptance Review Process for Early Site Permit, Design Certification and Combined License Applications”, ([ADAMS Accession No. ML14078A152](#)), which is intended for NRC staff but also provides guidance to applicants regarding what NRC staff expect in the contents of an application.

After completing several EISs for combined license applications, the NRC determined that many of the issues related to licensing a new reactor were due to a project sponsor not engaging early with other agencies that need to issue permits or assist in consultations for the project (water permits, Section 106 consultation, etc.). In response, the NRC reached out to the nuclear industry through the Nuclear Energy Institute (NEI) to jointly develop guidance for pre-application ([NEI 10-07](#)). NEI 10-07 discussed the importance of outreach with a number of federal and state agencies.

Additionally, RG 1.206 provides submittal guidance to combined license applicants for nuclear power plants submitted to the NRC under 10 CFR Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”, which specifies the information to be included in an application.

The NRC also staff engages in pre-application activities with potential advanced reactor applicants (<https://www.nrc.gov/reactors/new-reactors/advanced.html#preAppAct>), providing information on interim staff guidance in preparation for application submittals. The meeting summaries for advanced reactors are available at the above link.

4. (*Skip if response to question #1 is no*) Did your agency hold a pre-application/pre-official review meeting for one or more FAST-41 projects?⁶

No opportunity.

⁶ Providing information for two projects may demonstrate further progress in implementing the BP’s intent to the OED assessors.

- a. If **yes**, please upload one supporting piece of documentation⁷ per project onto MAX.gov.

FAST-41 Project #1 Name:

FAST-41 Project #2 Name:

- b. If **no**, certify below that you had no opportunity to apply the pre-application/pre-review process in FY19.⁸

NRC certifies that it had no opportunity to apply the pre-application/ pre-review process to a FAST-41 project in FY2019.

5. (Skip if response to question #1 is **no**) Was the implementation of the process described in Question #1 evaluated?⁹

No opportunity.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

N/A

- b. If yes, what were your agency's findings, and were potential improvements identified?

N/A

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

N/A

⁷ Examples of documentation include meeting agendas or follow-up emails (FY19 BPAT, p. 12).

⁸ Per the FY19 BPAT (p. 12), if no pre-application or pre-official review meetings occurred in FY19, then agencies can receive a "**No Opportunity**" (N/O) assessment result for implementing and evaluating the pre-application/pre-official review process in FY19. The agency can choose to demonstrate further progress in implementing the BP by demonstrating the application of the pre-application/pre-review process in other FYs.

⁹ This evaluation could be internal or external (not including evaluation by OED).

FY19 ARC Stage Assessment Indicator Questions: BP ii-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

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.”³

Please respond to all questions separately for up to two⁴ ERA processes/project types/resource areas⁵ for FAST 41-covered projects for which your agency is responsible during FY19.

ERA Process/Project Type/Resource Area #1:

1. Does your agency have established ERA process document(s)⁶ that tell the project sponsor what information they need to provide to the agency for the ERA process? *If yes, please also provide example process documents on MAX.gov or*

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 13.

⁴ Providing information for more than one ERAs processes/project types/resource areas may demonstrate further progress in implementing the BP’s intent to the OED assessors.

⁵ The decision to organize the ERA process documents by ERA process, by project type, or by resource area is at the agency’s discretion.

⁶ ERA process document(s) may include templates, application forms, flow charts, guidance document, and/or checklists.

link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

Yes.

NRC has an existing webpage entitled “NRC’s Environmental Review Process” (<https://www.nrc.gov/reactors/new-reactors/regs-guides-comm/erp.html>) that explains how NRC may implement FAST-41 and/or E.O. 13807 through its license application reviews for new reactors and facilities that contribute to the nuclear fuel cycle. On the webpage, separate sections for New Reactors and Nuclear Fuel Cycle Facilities detail the process for applicants. Key topics on this webpage include links to the FAST-41 Fact Sheet, the Permitting Dashboard, E.O.13807, and NRC’s Environmental Standard Review Plan (ESRP). For each section of the EIS, the ESRP (<https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1555/>) explains how staff evaluates the information submitted by an applicant for a license or permit. The ESRPs are used by applicants to review the NRC staff’s review criteria and to ensure that applications for licenses and permits are technically sufficient and contain adequate information to allow the NRC staff to conduct its evaluations.

Recently, NRC has added a flow chart on its “NRC’s Environmental Review Process” webpage (<https://www.nrc.gov/reactors/new-reactors/new-licensing-files/new-rx-license-process.pdf>), which illustrates the new reactor licensing process. Details include actions for coordination with cooperating agencies and pre-application interactions with the applicant, public outreach, concurrence, public meetings and hearings, leading to the record of decision.

Regulatory Guide (RG) 4.2, "Preparation of Environmental Reports for Nuclear Power Stations," provides guidance to applicants for the format and content of environmental reports (ERs) that are submitted as part of an application for a permit, license, or other authorization to site, construct, and/or operate a new nuclear power plant (<https://www.nrc.gov/docs/ML1807/ML18071A400.pdf>).

NUREG-1748 provides general procedures for the environmental review of licensing actions (e.g., fuel cycle facilities) regulated by the Office of Nuclear Material Safety and Safeguards (NMSS) including meeting the criteria for a categorical exclusion or by preparing an environmental assessment or environmental impact statement. Although the main focus of this guidance is the NRC staff’s environmental review process, it also contains related information which applicants and licensees may use (<https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1748/>).

2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing the process documents described in Question #1?

N/A

a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is no) How does your agency disseminate the ERA process document(s) to project sponsors?

All documents referenced in Question #1 are publicly available on the Agencywide Documents Access and Management System (ADAMS) (<https://www.nrc.gov/reading-rm/adams.html>), which is the official recordkeeping system of the NRC, and are available on the NRC's public website.

4. (Skip if response to Question #1 is no) What ERA process types and ERA process elements are covered by the ERA process document(s)⁷ that your agency provides to project sponsors?

The following actions are covered by the NRC's ERA process documents:

- Construction permit (CP) under 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities,"
- An early site permit or combined license (COL) under 10 CFR Part 52 "Licenses, Certifications, and Approvals for Nuclear Power Plants,"
- Certain front-end of the fuel cycle facilities licensing actions under 10 CFR Part 40 "Domestic Licensing of Source Material," and 10 CFR Part 70 "Domestic Licensing of Special Nuclear Material," with the exception of mining and milling.

5. (Skip if response to Question #1 is no) Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?⁸

Yes, the Environmental Standard Review Plan (ESRP) for new reactor licensing is currently undergoing revision and will be issued for public comment once completed.

a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

This assessment will occur once the ESRP revision is issued as final.

b. If yes, what were your agency's findings, and were potential improvements identified?

No opportunity. The ESRP revision is not yet finalized.

⁷ The ERA types listed here should match the documentation provided under Question #1.

⁸ This evaluation could be internal or external (not including evaluation by OED).

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

No opportunity.

ERA Process/Project Type/Resource Area #2:

1. Does your agency have established ERA process document(s)⁹ that tell the project sponsor what information they need to provide to the agency for the ERA process? *If yes, please also provide example process documents through MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

Yes.

As described above in Resource Area #1, Question #1, NRC's ESRP describes the staff's acceptance criteria and review process. As described in Resource Area #1, Question #1, Regulatory Guide (RG) 4.2 provides guidance to applicants for the format and content of environmental reports that are submitted as part of an application for a permit, license, or other authorization to site, construct, and/or operate a new nuclear power plant.

NRC also has Office Instructions such as NRO-REG-100 "Acceptance Review Process for Early Site Permit, Design Certification and Combined License Applications" (<https://www.nrc.gov/docs/ML1407/ML14078A152.pdf>). Although intended for staff, the document is publicly available and outlines what information is expected from applicants during the licensing and permitting application process and what information the staff expects to see in a technically sufficient application acceptable to the NRC. Enclosures to NRO-REG-100 include review guides for environmental reports, acceptance review flow charts, and examples of resolutions for application deficiencies and information gaps and, staff interactions with applicants. The document also describes paths forward, including requests for supplemental information, where an applicant's license or permit application contains deficiencies. Example checklists are provided to evaluate the necessary components of a license or permit application.

Regulatory Guide 4.7, "General Site Suitability Criteria for Nuclear Power Stations" RG 4.7 describes a method that the NRC considers acceptable for an applicant to use to implement the site suitability requirements for nuclear power stations. Applicants may use the guidelines in identifying suitable candidate sites for nuclear power stations.

⁹ ERA process document(s) may include templates, application forms, flow charts, guidance document, and/or checklists.

2. (Skip if response to Question #1 is **yes**) In FY19, did your agency begin or continue developing the process documents described in Question #1?

Yes.

NRC is currently developing process documents in the form of Interim Staff Guidance (ISG) for advanced microreactor applicants. Micro-reactors may have substantially reduced environmental impacts due to a substantially smaller construction footprint of only a few acres or less. Current ERA documents do not contemplate a reactor at the small scale of new microreactor technologies. As such, NRC is currently drafting an ISG for the environmental review of advanced reactor applications and holding periodic stakeholder meetings with potential applicants.

The ISG for environmental reviews of micro-reactors will address the anticipated smaller footprint of the advanced reactor siting designs, which will be incorporated into future revisions of existing NRC's guidance and Environmental Standard Review Plan (ESRP). NRC has held public meetings (<https://www.nrc.gov/docs/ML1917/ML19179A181.pdf>) with potential microreactor applicants to communicate expectations and to share drafts of the interim staff guidance being developed for microreactors and seek input from potential applicants. Although intended for staff, the ISG provides details on the NRC expectations for the content of applications for microreactors and other advanced technologies.

NRC has added new content to publicly available webpages for advanced reactors (<https://www.nrc.gov/reactors/new-reactors/advanced.html>) which includes a strategy ([ADAMS Accession No. ML17165A069](#)) for improving regulatory readiness to establish and document criteria necessary to reach an environmental finding for advanced reactor applicant submissions. Recently the staff issued [SECY-19-0009](#), "Advanced Reactor Program Status" which provides the status of the NRC staff's activities related to advanced reactors, including the progress and path forward on each of the implementation action plan strategies including development of staff guidance for flexible regulatory review processes within the bounds of existing environmental regulations for review of advanced reactor technologies.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

As described above, [SECY-19-0009](#), "Advanced Reactor Program Status" contains an implementation plan with a progress summary and future plan for the areas of Staff Development and Knowledge Management, Analytical Tools, Regulatory Framework, Consensus Codes and Standards, Resolution of Policy Issues and Communication. The implementation plan includes the establishment of a broad regulatory framework to establish criteria for environmental findings of advanced reactors currently in progress.

3. (Skip if response to Question #1 is **no**) How does your agency disseminate the ERA process document(s) to project sponsors?

All documents referenced in this questionnaire are publicly available through ADAMS as described in Question #3 above. In addition, this information is disseminated to project sponsors at public meetings and during the interactions of NRC and an applicant through the pre-application process.

4. (Skip if response to Question #1 is **no**) What ERA process types and ERA process elements are covered by the ERA process document(s)¹⁰ that your agency provides to project sponsors?

Environmental reviews for Combined Operating Licenses, Construction Permits, Operating Licenses, Early Site Permits and Limited Work Authorizations.

5. (Skip if response to Question #1 is **no**) Has the development, maintenance, and dissemination of ERA process document(s) been evaluated?¹¹

Yes.

NRC routinely incorporates lessons learned on previous applications and licensing activity and incorporates these lessons learned into guidance revisions. Examples of documents evaluating NRC's past performance on development, maintenance and dissemination of ERA process documents include:

- [New Reactor Licensing Process Lessons Learned Review: 10 CFR Part 52](#)
- [Post-Combined License Part 52 Implementation Self-Assessment Working Group Report](#)
- [Staff Report: 10 CFR Part 52 Application Reviews - Efficiency Opportunities and Review Timelines](#)

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

Effectiveness is evaluated within the lessons learned reports conducted and are assessed in the documents given in the above response.

- b. If yes, what were your agency's findings, and were potential improvements identified?

Potential improvements identified included: enhanced search capabilities for staff in

¹⁰ The ERA types listed here should match the documentation provided under Question #1.

¹¹ This evaluation could be internal or external (not including evaluation by OED).

NRC's document management system for requests for additional information (RAI) from applicants; identification of areas within the staff's 10 CFR Part 52 application reviews that could be enhanced for efficiency; and improving the timing of the interaction between staff and applicants during the application.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

NRC updated the RAI system with additional search capabilities and currently provides a web-based RAI system training for staff. Currently, efforts are underway to update licensing policies, rules and guidance as a result of improvements identified. Potential improvements include alignment of 10 CFR Parts 50 and 52. These improvements were presented at the NRC's 2019 Regulatory Information Conference (<https://www.nrc.gov/docs/ML1833/ML18331A379.pdf>).

As described in Resource Area #2, Question #2 above, staff have developed ISGs and other guidance that describe the staff's expectations for the contents of advanced reactor technology applications. The ISGs are being developed to clarify and address issues not discussed in the ESRPs. When the ESRPs are revised, the ISG guidance will be incorporated to provide guidance for the staff's and acceptance criteria that are used by applicants.

FY19 ARC Stage Assessment Indicator Questions: BP iii-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

BP iv-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.”³

If your agency does not interact with Tribes for any of its environmental reviews and authorization (ERA) process for FAST-41 covered projects, your agency will qualify for a **“Not Applicable” (N/A)** assessment result. *If this is the case, please certify below that your agency for “all of its ERA processes[,] it does not interact with Tribes for FAST-41 covered projects”⁴ and do not further answer this questionnaire.*

The NRC currently does not have any FAST-41 covered projects.

The NRC interacts with Indian Tribes on an ongoing basis consistent with the principles stated in NRC’s Tribal Policy Statement (<https://www.nrc.gov/about-nrc/state-tribal/tps.html>).

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 15.

⁴ FY19 BPAT, p. 17.

Please fill out the appropriate set of questions below based on whether your agency chose to implement this BP using a tribal consultation policy ([Questionnaire A](#)) or a consultation agreement or protocol ([Questionnaire B](#)).

Questionnaire A: Agencies with tribal consultation policies

1. Does your agency have a tribal consultation policy with Federally Recognized Tribes that ensures that:
 - “the Agency’s principles for consultation with Federally Recognized Tribes on natural and cultural resource identification and treatment decisions are incorporated,”
 - “Agency staff are competent in the Agency’s principles to ensure consistent application of the Agency’s tribal consultation policy,” and
 - “the Agency’s policy is consistent with Executive Order (EO) 13175”?⁵

If yes, please also provide the tribal consultation policy document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

On January 9, 2017, the NRC issued its Tribal Policy Statement of principles to guide the agency's government-to-government interactions with American Indian and Alaska Native Tribes ([82 FR 2402](#)). The purpose of the NRC's Tribal Policy Statement is to promote effective government-to-government interactions with Indian Tribes, and to encourage and facilitate Tribal involvement in the areas over which the Commission has jurisdiction. The policy statement underscores the NRC's commitment to conducting outreach to Indian Tribes and engaging in timely consultation, and to coordinate with other Federal agencies. It is the NRC's expectation that all consultation and coordination practices will be consistent with or adhere to the NRC's Tribal Policy Statement.

Additionally, the NRC requires all staff and managers that interact with tribal governments to take the on-line training course “[Cultural Sensitivity Training: Engaging Native Americans in NRC's Mission](#).” In addition, the NRC's "Tribal Protocol Manual" (NUREG-2173, Rev. 1) promotes effective interaction with American Indian tribes. The NRC's Tribal Liaison staff assist the agency when consulting with tribes, and support and train the NRC staff. The NRC also utilizes experienced staff and contractors to support its environmental review activities with Indian Tribes.

⁵ FY19 BPAT, p. 15.

Link to Tribal Protocol Manual: <https://www.nrc.gov/docs/ML1821/ML18214A663.pdf>.

As the Commission stated in its *Federal Register* notice ([82 FR 2402](#)): “As an independent regulatory agency, the NRC is exempt from the requirements of certain E.O.s, including E.O. 13175. However, on January 26, 2001, the Commission informed the Office of Management and Budget stating “. . . in exercising its regulatory authority this agency [NRC] acts in a manner consistent with the fundamental precepts expressed in the Order [E.O. 13175]” (ADAMS Accession No. [ML010260297](#)). To that end, the Commission has developed agency practices for Tribal consultation consistent with the principles articulated in EO 13175.”

2. (Skip if response to Question #1 is **yes**) If FY19, did your agency begin or continue developing an agency tribal consultation policy with the elements in Question #1?

No. The NRC issued its Tribal Policy Statement in January 2017.

- a. If yes, describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

N/A

3. (Skip if response to Question #1 is **no**) How does your agency’s tribal consultation policy align with the elements in Question #1?
Please provide the page number(s) within your tribal policy where your agency believes the tribal policy meets the BP’s above-listed requirements.

See the response to Question #1. The NRC’s Tribal Policy Statement outlines the following principles (see pages 84 FR 2415-2417. All principles listed below appear on page 2416 of the FR notice):

1. The NRC Recognizes the Federal Trust Relationship With and Will Uphold its Trust Responsibility to Indian Tribes.
 2. The NRC Recognizes and Is Committed to a Government-to-Government Relationship with Indian Tribes.
 3. The NRC Will Conduct Outreach to Indian Tribes.
 4. The NRC Will Engage in Timely Consultation.
 5. The NRC Will Coordinate with Other Federal Agencies.
 6. The NRC Will Encourage Participation by State-Recognized Tribes.
- “the Agency’s principles for consultation with Federally Recognized Tribes on natural and cultural resource identification and treatment decisions are incorporated,”
 - As articulated in the NRC Tribal Policy Statement Principle 1, “The NRC

Recognizes the Federal Trust Relationship With and Will Uphold Its Trust Responsibility to Indian Tribes." The NRC fulfills its Trust Responsibility through implementation of the principles of the Tribal Policy Statement, by providing protections under its implementing regulations, and through recognition of additional obligations consistent with other applicable treaties and statutory authorities." (82 FR 2402, 2416 col. 1.) This language specifically recognizes the statutory obligation to conduct tribal consultation during environmental reviews through the National Environmental Policy Act and National Historic Preservation Act Section 106 process. When preparing the environmental reviews, the NRC considers Tribal input when making determinations on the identification of historic properties and cultural resources. Tribal input is also considered when making determinations regarding potential ways to avoid, mitigate or minimize adverse effects historic properties and cultural resources.

- "Agency staff are competent in the Agency's principles to ensure consistent application of the Agency's tribal consultation policy,"
 - While the Tribal Policy Statement does not specifically address staff training, the NRC utilizes qualified professionals and requires all staff who interact with Indian Tribes to take "Cultural Sensitivity Training: Engaging Native Americans in NRC's Mission." In addition, the NRC's "Tribal Protocol Manual" (NUREG-2173, Rev. 1), promotes effective interaction with American Indians. The NRC's Tribal liaison staff also provides additional training on interacting with Tribal governments.

- "the Agency's policy is consistent with Executive Order (E.O.) 13175"
 - As the Commission stated in its *Federal Register* notice ([82 FR 2402](#)): "As an independent regulatory agency, the NRC is exempt from the requirements of certain E.O.s, including E.O. 13175. However, on January 26, 2001, the Commission informed the Office of Management and Budget stating ". . . in exercising its regulatory authority this agency [NRC] acts in a manner consistent with the fundamental precepts expressed in the Order [E.O. 13175]" (ADAMS Accession No. [ML010260297](#)). To that end, the Commission has developed agency practices for Tribal consultation consistent with the principles articulated in EO 13175."

7. (Skip if response to Question #1 is no) In FY19, how did your agency ensure competency of staff in using the tribal consultation policy as described in Question #1? Please include a description of "how this policy was communicated to relevant Agency staff in FY 2019" and "provide documentation (sample email, copy of the training on the policy, etc.) that [communication of the policy] occurred in FY 2019."⁶ *Provide documentation on MAX.gov or link below.*

⁶ FY19 BPAT, p. 16.

Staff were informed of the establishment of the NRC's Tribal Policy Statement through an agency-wide announcement issued by the NRC Chairman on February 13, 2017 ([link to announcement](#)). The Chairman stated that the policy established principles that the NRC staff will follow to promote effective Government-to-Government interactions with federally-recognized American Indian and Alaska Native Tribes. Implementation of the principles in the policy will encourage and facilitate Tribal involvement in NRC regulatory activities. The Chairman reiterated that it is the Commission's expectation that all program and regional office intergovernmental consultation practices will be consistent with the principles described in the Tribal Policy Statement.

As stated in 82 FR 2402, 2417, col. 1, Tribal liaison staff educate all NRC staff about Tribal issues including cultural sensitivity and Federal Trust Responsibility.

The NRC conducted two workshops in April 2019. Staff were informed of these workshops via agency-wide emails and [announcements](#). On April 9, 2019, the NRC conducted a workshop entitled "Tribal Interactions: NHPA – A Multiple Agency & Tribal Panel Discussion" to share perspectives on the Section 106 process and handling sensitive information for Tribes. Panelists included representatives from the NRC staff, Navajo Nation, Prairie Island Indian Community, Federal Energy Regulatory Commission, National Park Service and the Advisory Council on Historic Preservation. The workshop provided opportunities to discuss tribal consultation with representatives from other federal agencies, Tribes, and experienced NRC staff. The purpose of this workshop was to facilitate a better understanding on identifying Tribal governments for outreach and consultation, Tribal perspectives on gathering, handling and using Tribal information, and the protection of the confidential information during the Section 106 and environmental review process. The workshop also allowed time for audience questions and participation during the panel discussion. This session was recorded and will be available on the NRC's internal training website.

A second panel discussion was held on April 11, 2019, entitled "Tribal Interactions: A Discussion of NRC's Staff Experiences." This workshop provided the NRC staff with opportunities to discuss Tribal interactions with other experienced NRC project managers, Tribal liaisons and Regional State Liaison Officers. The workshop also allowed time for audience questions and participation during the panel discussion. Topics included implementation of the NRC's Tribal Policy Statement, Tribal Protocol Manual, treaties, other statutory and regulatory requirements, and guidance documents involving Tribal interactions that may occur during the NRC's regulatory activities.

8. (Skip if response to Question #1 is **no**) Did your agency or a qualified third party assess⁷ the agency's effectiveness in implementing the tribal consultation policy, including the competency of agency staff in the application/use of the policy?

In 2017-2018, the NRC's Office of the Inspector General (OIG) audited of the NRC's Consultation Practices with Federally Recognized Native American Tribal Governments. The objective was to determine whether NRC fulfills its Tribal outreach and consultation responsibilities and requirements.

Link to the OIG Report: <https://www.nrc.gov/docs/ML1809/ML18094A267.pdf>

In 2017-2018, the U.S. Government Accountability Office (GAO) was asked to review federal agencies' processes for consulting with tribes on infrastructure. The NRC was one of the 21 agencies involved in this study.

The link to GAO's 2019 report: <https://www.gao.gov/assets/700/697694.pdf>

- a. If yes, at what frequency does your agency review its tribal consultation policy and when was it last reviewed? In addition, how was the effectiveness of your agency's new or existing/established process assessed?

The Tribal Liaison staff provides its Division management with an annual report on the status of tribal interactions and consultations (link to last report [ML16319A271](#)).

The OIG and GAO audits assessed the NRC's tribal consultation program. The policy was established in January 2017 and was last reviewed during 2017 and 2018, as discussed above.

- b. If yes, what were your agency's findings, and were potential improvements identified?

OIG Report

The OIG's report found that the NRC fulfills its Tribal outreach and consultation responsibilities and requirements; however, opportunities for improvement exist. Specifically, NRC should (1) clearly define the Federal, State, and Tribal Liaison Branch

⁷ The agency can choose the frequency of review of the tribal consultation policy, and the agency also decides the definition of qualified third party (FY19 BPAT, p. 16). "If an assessment was not conducted in FY 2019, the Agency will identify when the assessment is scheduled to be conducted" (*ibid*). This evaluation could be internal or external (not including evaluation by OED).

(FSTB's) roles and responsibilities, (2) update internal guidance to include FSTB when conducting Tribal outreach and consultations, (3) establish qualification requirements for FSTB and training requirements for other NRC staff, and (4) include sufficient resources to allow for necessary outreach and consultation.

This report makes five recommendations to (1) clearly define FSTB's role and responsibilities with regard to Tribal outreach and consultation, (2) update NRC guidance to include FSTB when conducting Tribal outreach and consultations, (3) create a qualification program for FSTB, (4) require all staff and management that my interact with Tribes to take Tribal relations training, and (5) include sufficient resources to allow for necessary outreach and consultation activities by FSTB staff.

NRC Staff response to OIG recommendations are provided in memorandum titled "Staff Response to The Office of The Inspector General's Audit of The U.S. Nuclear Regulatory Commission's Consultation Practices With Federally Recognized Native American Tribal Governments (OIG-18-A-10):"

<https://www.nrc.gov/docs/ML1810/ML18100B301.pdf>.

GAO Report

Federal agencies are required in certain circumstances to consult with tribes on infrastructure projects and other activities, such as permitting natural gas pipelines, which may affect tribal natural and cultural resources. GAO was asked to review federal agencies' processes for consulting with tribes on infrastructure.

The GAO report examined key factors tribes and selected federal agencies identified that hinder effective consultation on infrastructure projects and steps agencies have taken to facilitate tribal consultation. GAO examined laws, regulations, and policies and interviewed officials from 21 federal agencies that are generally members of the FPISC. GAO also summarized comments that 100 tribes submitted to federal agencies in 2016 to provide input on tribal consultation for infrastructure projects and interviewed available officials from 57 tribes and eight tribal organizations. Tribal and agency views are not generalizable.

For NRC, the GAO recommended that the NRC document in its Tribal consultation policy how NRC officials are to communicate with Tribes about how Tribal input from consultation was considered in agency decisions on infrastructure projects.

NRC Staff response to GAO recommendations are provided in this link: NRC: Letter to Ms. Anne-Marie Fennell, GAO, Responding to GAO Report, "Tribal Consultation: Additional Actions Needed for Infrastructure Projects," (GAO-19-22):

<https://www.nrc.gov/docs/ML1912/ML19128A170.pdf>.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

The OIG Audit Report made five recommendations to improve the consultation practices of the NRC with federally recognized Native American Tribal governments. In a Memorandum dated May 1, 2018, the staff agreed with the five audit recommendations, and is in the process of implementing the OIG recommendations.

Link to NRC Staff Response: <https://www.nrc.gov/docs/ML1810/ML18100B301.pdf>

OIG Recommendation 1: In response to this recommendation, the NRC staff have updated this MD 5.1 and submitted it to the Commission in for review and approval in August 2018. In addition, the staff developed a new procedure TR-100, "Tribal Liaison Roles and Responsibilities," that defined the roles and responsibilities of the Tribal Liaisons pertaining to Tribal outreach and consultation. This procedure was issued in December 19, 2018.

Link to TR-100: <https://www.nrc.gov/docs/ML1827/ML18275A329.pdf>

OIG Recommendation 2: In response, NRC staff developed TR-100, and provided interim training to program office staff who interact with Tribes regarding coordination with Tribal Liaisons. Program offices are working to complete updates to their respective procedures/guidance documents by March 2020.

OIG Recommendation 3: In 2018, cultural sensitivity became required training for all staff and managers that interact with Tribes.

OIG Recommendation 4: In response, NRC staff determined that the outcome of this recommendation could be accomplished by assigning and tracking completion of appropriate training in lieu of a formal qualification program. By the end of 2018, all but a recently hired the Tribal Liaison staffer completed identified training. The new hire will complete all assigned training by the end of calendar year 2019.

OIG Recommendation 5: In February 2018, the Division of Materials, Safety, Security, State, and Tribal Programs began identifying Tribal Liaison outreach and consultation-related travel as a separate travel category. This new capability will be used to better inform future NRC travel budgets.

GAO Recommendations

NRC Chairman Svinicki responded by letter dated August 16, 2019 to Ms. Anne-Marie

Fennell, GAO, and Congress regarding GAO Report, "Tribal Consultation: Additional Actions Needed for Infrastructure Projects," (GAO-19-22). In this letter, the Chairman described the NRC's planned action in response to a recommendation in the U.S. Government Accountability Office (GAO) report entitled, "Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects (GAO-19-22)," published on March 20, 2019. Specifically, the GAO recommended that the NRC document in its Tribal consultation policy how NRC officials are to communicate with Tribes about how Tribal input from consultation was considered in agency decisions on infrastructure projects.

The NRC agrees with this recommendation and is addressing it. The NRC staff is developing guidance to complement the agency's Tribal consultation policy that will include information for NRC officials about communicating with federally recognized Tribes about how Tribal input from consultation was considered in agency decisions.

Link to NRC response: <https://www.nrc.gov/docs/ML1912/ML19128A170.pdf>

Questionnaire B: Agencies with tribal consultation agreements or protocols

1. Does your agency have in place an agency consultation agreement or protocol with Federally Recognized Tribes or an intertribal organization?⁸

No.

2. *(Skip if response to Question #1 is yes)* In FY19, has your agency started or continued developing an agency consultation agreement or protocol with Federally Recognized Tribes that:
 - Covers one or more ERA process or is programmatic,
 - Includes at least one Federally Recognized tribe or intertribal organization, and
 - "Ensure[s] relevant Agency staff are competent in the Agency's consultation agreements or protocol to ensure consistent application of the Agency's consultation agreement or protocol when appropriate"?⁹

N/A

⁸ Per the FY19 BPAT (p. 15), "Agencies can utilize or update existing consultation agreements or protocols that meet the intent of this BP. Existing authorities, such as 36 C.F.R. 800.2(c)(2)(ii)(E) for Section 106 reviews under the National Historic Preservation Act, may provide a framework for the establishment of such agreements."

⁹ FY19 BPAT, p. 15.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is no)* Did your agency develop, update, or utilize the tribal consultation agreement or protocol with one or more Federally Recognized Tribes or intertribal organizations in FY19 that either was programmatic or covered one or more ERA process?

N/A

- a. Please confirm that the consultation agreement or protocol was transmitted to Advisory Council on Historic Preservation in accordance with 36 CFR 800.2(c)(2)(ii)(E).¹⁰

4. *(Skip if response to Question #1 is no)* In FY19, how did your agency ensure competency of staff in using the tribal consultation agreement or protocol as described in Question #1? Please include a description of “how this policy was communicated to relevant Agency staff in FY 2019” and “provide documentation (sample email, copy of the training on the policy, etc.) that [communication of the policy] occurred in FY 2019.”¹¹ *Provide documentation on MAX.gov or link below.*

N/A

5. *(Skip if response to Question #1 is no)* Was the agency’s effectiveness in implementing its tribal consultation agreement or protocol, including the competency of its staff in the tribal consultation agreement or protocol, evaluated?¹²

N/A

- a. If yes, when and how was the effectiveness of your agency’s new or existing/established process assessed?

¹⁰ FY19 BPAT, p. 15.

¹¹ FY19 BPAT, p. 16.

¹² This evaluation could be internal or external (not including evaluation by OED).

b. If yes, what were your agency's findings, and were potential improvements identified?

c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

FY19 ARC Stage Assessment Indicator Questions: BP iv-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

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.”³

Please fill out the relevant questions below based on whether your agency had an initial FAST-41 project CPP in FY19 ([Questionnaire A](#)) or substantive schedule change(s) on FAST-41 project(s) in FY19 ([Questionnaire B](#)). Please note if both circumstances apply, your agency will need to fill out both questionnaires.

- Did your agency have an **initial CPP** for any FAST-41 projects in FY19?
If yes, fill out [Questionnaire A](#).

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 18.

If no, certify below that your agency had no initial CPPs in FY19. Your agency will receive a “No Opportunity” (N/O) assessment result for Questionnaire A.

No opportunity. NRC certifies that there were no initial CPPs in FY2019.

- Did your agency have **any substantive schedule changes**⁴ for any FAST-41 projects in FY19?

If yes, fill out [Questionnaire B](#).

If no, certify below that your agency had no substantive schedule changes for any FAST-41 projects in FY19. Your agency will receive a “No Opportunity” (N/O) assessment result for Questionnaire B.

Yes. For the Turkey Point Unit 6 & 7 COL project, the project sponsor did not submit the required information to the U.S. Army Corps of Engineers (USACE) to complete an evaluation. Once the USACE completes their review, the Environmental Protection Agency will review the information to remove/reevaluate any objections to the proposed project. As such, a substantive schedule change was necessary.

Questionnaire A: Agencies with an initial Coordinated Project Plan (CPP) in FY19

Per the FY19 BPAT (p. 18), the detailed schedule needs to include a good faith effort of all steps, including opted-in non-Federal governmental entity requirements, project sponsor activities, and non-opted-in governmental entities’ requirements to the maximum extent practicable.

1. For any FAST-41 projects with an initial CPP in FY19, did your agency provide the project sponsor/applicant and relevant governmental entities with information about all steps of all ERA processes by the time the initial CPP or project management plan was completed?⁵

N/A

2. *(Skip if response to Question #1 is yes)* In FY19, did the agency begin or continue developing a method as described in Question #1?

N/A

⁴ The FY19 BPAT (p.18) defines substantive schedule change as “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.”

⁵ For example, agencies could use the Section 4 of the October 2018 CPP template and share the CPP with relevant governmental entities and the project sponsor/applicant.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is **no**) Was the information provided (as described in Question #1) sufficiently detailed for other entities to make management decisions or conduct resource planning?

N/A

4. (Skip if response to Question #1 is **no**) Did your agency communicate the initial detailed schedule described in Question #1 for FAST-41 projects in FY19?

N/A

If yes, please also provide supporting records for up to two projects⁶ on MAX.gov or link below.

FAST-41 Project #1:

FAST-41 Project #2:

5. (Skip if response to Question #1 is **no**) Was the schedule information described in Question #1 and its transmission to relevant entities evaluated⁷?

N/A

- a. If yes, when and how was the effectiveness assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

⁶ Providing information for up to two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁷ OED expects agencies to evaluate (a) timeliness of the distribution of the initial schedule, (b) whether or not the relevant entities received the initial schedule, and (c) the usefulness to other entities from the level of detail of the initial detailed schedule. This evaluation could be internal or external (not including evaluation by OED).

Questionnaire B: Agencies with substantive schedule change(s) in FY19

The FY19 BPAT (p. 18) defines substantive schedule change as “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.” Given that the FAST-41 statute does not allow schedule changes to be made within a month of a deadline, OED expects that agencies would provide more than 30 days’ notice to the project sponsor/applicant and affected governmental entities of a substantive schedule change. Updated schedules made in response to substantive schedule changes should include steps beyond those captured in the FAST-41 Implementation Guidance Appendix B. Any alerts made through the Permitting Dashboard do not qualify as communication for the purposes of implementing this BP.

- 1. For any FAST-41 project with substantive schedule changes in FY19, did your agency directly communicate the changes to the project sponsor/applicant and relevant affected government entities?
If yes, please also provide the communication records on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.

No. As this is an issue of the project sponsor obtaining a permit decision from the U.S. Army Corps of Engineers (USACE), the USACE communicates directly and periodically with the project sponsor. These schedule changes have been submitted, approved and published on the MAX.gov Dashboard.

- 2. *(Skip if response to Question #1 is yes)* In FY19, did your agency begin or continue developing a method to communicate substantive schedule changes as described in Question #1?

No. As the schedule change is a result of the project sponsor’s deferred response to the USACE with the appropriate information, the project sponsor is aware of the schedule changes. The USACE communicates the schedule changes to the project sponsor.

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline)

N/A

3. (Skip if response to Question #1 is **no**) Did your agency ensure that the information as described in Question #1 was provided in sufficient time for other entities to make management decisions/conduct resource planning?

N/A

4. (Skip if response to Question #1 is **no**) Did your agency communicate all substantive schedule changes and provide an updated detailed schedule for multiple FAST-41 projects in FY19?

N/A

If yes, please also provide the communication records for up to two projects⁸ on MAX.gov or link below. Please note that the BP applies to each substantive schedule change for a project, so provide documentation that the BP was applied each time a substantive schedule change occurred on the project.

FAST-41 Project #1:

FAST-41 Project #2:

5. (Skip if response to Question #1 is **no**) Was the effectiveness of its communication method as described in Question #1 evaluated?⁹

N/A

- a. If yes, when and how was the effectiveness of your agency's new or existing/established method assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

⁸ Providing information for up to two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁹ This evaluation could be internal or external (not including evaluation by OED).

FY19 ARC Stage Assessment Indicator Questions: BP v-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

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.”³

1. Does your agency have documented process(es) to address ERA staff changes and ensure continuity of project-specific knowledge and communications? This process should:
 - “[D]efine the points in the ERA process for FAST-41 projects at which your agency will capture and record key information developed at a sufficient level of detail to enable potential future transfer in the event of a staff transition,” and
 - Describe your how your agency “updates other entities on agency personnel changes for covered projects.”⁴

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 21.

⁴ FY19 BPAT, p. 22.

*If **yes**, please also provide the process document on MAX.gov or link below. For subsequent questions, you may refer to page numbers in provided documents as a way to convey information.*

Yes.

NRC sends a letter to an applicant and stakeholders to communicate project manager (PM) changes (e.g., [ADAMS Accession No. ML14142A471](#)). The PM typically notifies other agencies of the change in an email. NRC's website identifies the PMs in charge of the safety and environmental reviews for licensing projects. NRC typically has a backup PM to ensure continuity of the project. In addition, NRC utilizes a SharePoint site to document project information that it shares with cooperating agencies.

2. *(Skip if response to Question #1 is **yes**)* In FY19, did your agency begin or continue developing a process as described in Question #1?

N/A

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to Question #1 is **no**)* How does the process described in Question #1 enable potential future transfer of project-specific knowledge and communications in the event of a staff transition? Briefly summarize the ERA process steps captured and describe how staff changes are communicated to applicants/project sponsors and other affected governmental entities participating in project review.

The process enables potential future transfer of project-specific knowledge and communications in the event of a staff change by providing timely recordkeeping and early notification. NRC's project SharePoint site contains all information necessary for an orderly transition.

ERA process steps and information that are captured and recorded include:

- Scope Determination
- Impact determination via subject matter
- End of Comment/Response period
- Final environmental document completed
- Ensure the review is in compliance with other applicable environmental laws

- Permit decisions of other federal & state agencies
- Project recommendations (in preparation for mandatory hearing)
- Project Record of Decision

4. (Skip if response to Question #1 is **no**) Did your agency apply the process as described in Question #1 for one or more FAST-41 projects?

No opportunity.

- a. If yes, please upload supporting record(s)⁵ of implementing the process for up to two⁶ FAST-41 covered project ERAs. Also, please describe whether or not any substantial schedule changes occurred as a result of the staff transition and if so how ERA processes were impacted.

FAST-41 ERA #1:

N/A

FAST-41 ERA #2:

N/A

- b. If no, certify below that you had no opportunity to apply the process in FY19.⁷

The NRC certifies that there was no opportunity.

5. (Skip if response to Question #1 is **no**) Was the implementation of the process described in Question #1 evaluated?⁸

No opportunity.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

⁵ This should include the record that project sponsors and other FAST-41 participants were informed of staff changes for covered projects in FY 2019 in a timely manner and record of implementing the project continuity process (FY19 BPAT, p. 22).

⁶ Providing information for up to two ERAs may demonstrate further progress in implementing the BP's intent to the OED assessors. Please note the two ERA examples could be for the same or different projects.

⁷ Per the FY19 BPAT (p. 22-23), if no staff changes or substantive schedule changes occurred your agency can receive a **"No Opportunity" (N/O)** assessment result for implementing this part of the BP in FY19. Your agency can alternatively choose to demonstrate further progress in implementing the BP by demonstrating the application of the BP in other FYs.

⁸ This evaluation could be internal or external (not including evaluation by OED).

N/A

- b. If yes, what were your agency's findings, and were potential improvements identified?

N/A

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

N/A

FY19 ARC Stage Assessment Indicator Questions: BP v-2

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

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, to reduce duplicative actions (e.g., related to data collection and analysis).

Joint processes could 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.’”³

1. Does your agency have existing or established procedure(s)/process(es) in place for:
 - “Ensuring existing joint processes/programmatic approaches to reduce duplicative actions have been utilized during the past FY, when appropriate,”
 - Identifying new opportunities when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs,”

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 21.

- “Creating new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists,” and
- “Utilizing the joint processes/programmatic approaches.”⁴

Yes.

The NRC has an existing memorandum of understanding (MOU) with the US Army Corps of Engineers (USACE) to cooperate on joint Environmental Impact Statements for new reactor applications (see [73 FR 55546](#)). On September 12, 2008, the NRC and the USACE signed a MOU which establishes a framework for early coordination and participation among the agencies. The MOU is an effort to facilitate the timely review of proposed nuclear power plant applications and it establishes a commitment to early agency involvement; proactive participation and informal communication throughout the review process; sharing of information gathered, considered and relied upon by each agency; and, if requested, interagency participation in public hearings. Interagency cooperation under the MOU will facilitate each agency’s compliance with its review responsibilities under the National Environmental Policy Act and other related statutes with respect to the authorizations required to construct and operate nuclear power plants licensed by the NRC. It is anticipated that the USACE will act as a cooperating agency in most circumstances; however, the MOU does not preclude different forms of coordination (e.g., USACE participation as a consulting agency).

NRC has a scoping process for identifying new opportunities to identify agencies with specialized expertise to reduce duplicative efforts (10 CFR 51.29 Scoping-environmental impact statement and supplement to environmental impact statement: (<https://www.nrc.gov/reading-rm/doc-collections/cfr/part051/part051-0029.html>)).

Additionally, the NRC endorsed the Nuclear Energy Institute (NEI) 10-07, “[Industry Guideline for Effective Pre-Application Interactions with Agencies Other Than NRC During the Early Site Permit Process](#)” which provides the framework for project sponsors to engage with governmental entities as early as possible in the project’s development.

2. (Skip if response to Question #1 is yes) In FY19, did your agency begin or continue developing a process/procedure as described in Question #1?

N/A

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

⁴ FY19 BPAT, p. 24.

3. *(Skip if response to Question #1 is no)* For the below items regarding the procedure(s)/process(es) as described in Question #1, provide documentation⁵ (as appropriate) to demonstrate progress in implementing the BP⁶ and describe (as applicable) how your agency has:

- a. Ensured that existing joint processes and programmatic approaches have been utilized during the past FY to reduce duplicative actions.

No opportunity due to no active FAST-41 projects.

(Skip if your agency had no existing joint processes/programmatic approaches as of January 2019). For agencies with existing joint processes/programmatic approaches to reduce duplicative actions as of January 2019 that are applicable to FAST-41 project types, provide a list of these existing joint processes/programmatic approaches⁷.

As mentioned in Question #1, the NRC has executed an MOU with the USACE on Environmental Reviews Related to the Issuance of Authorization to Construct and Operate Nuclear Power Plants (see [73 FR 55546](#)).

In addition, the NRC has also entered into a MOU - Interagency Steering Committee On Multimedia Environmental Modeling (ISCMEM) Memorandum of Understanding Among the U.S. Nuclear Regulatory Commission (NRC), the U.S. Environmental Protection Agency (EPA), the United States Department of Defense (DOD), the U.S. Department of Energy (DOE), the U.S. Department of the Interior (DOI), and the National Science Foundation (NSF) (ADAMS Accession No. [ML16273A359](#)). This MOU serves as a framework for facilitating cooperation and coordination among the signatories in research and development of multimedia environmental models, software and related databases, including development, enhancements, applications and assessments of site-specific, generic, and process-oriented multimedia environmental models as they pertain to human and environmental health risk assessment.

- b. Identified new opportunities for establishing joint processes/procedures when governmental entities determine there is duplication of activities (such as, but not limited to, data collection) that would benefit from collaboration in future ERAs.

No opportunity to identify new joint processes/procedures due to no active FAST-41 projects.

⁵ Documentation could include procedures, process documents, or other types of process documents.

⁶ Providing documentation on MAX.gov or as web links may replace written descriptions as long as page numbers are referenced for relevant sections.

⁷ Existing joint processes may be listed in the textbox provided, at web link(s) entered in the textbox that goes directly to the list, or in accompanying document(s) uploaded to the BP v-2 MAX.gov with relevant page numbers provided in the textbox.

- c. Created new joint processes/programmatic approaches for collaboration between governmental entities to avoid duplicative actions or demonstrating a robust level of joint processes/programmatic approaches exists.

No opportunity to create new joint processes/procedures due to no active FAST-41 projects.

- d. Utilized the joint processes/programmatic approaches.

No opportunity to utilize joint processes/programmatic approaches due to no active FAST-41 projects.

- e. *(Skip if your agency had existing joint processes/programmatic approaches as of January 2019).* If your agency had no existing joint processes and/or programmatic approaches to reduce duplicative actions, as of January 2019, that are applicable to FAST-41 project types, please certify below in order to qualify for a **“No Opportunity” (N/O)** assessment result for Questions #3a and #3d.

NRC certifies that there was no opportunity.

- 4. *(Skip if response to Question #1 is no)* For the questions below, provide information⁸ on how your agency applied the procedure/process for developing and using joint processes/programmatic approaches to reduce duplicative actions in FY19 as described in Question #1?

- a. Did your agency have an opportunity to utilize or apply an *existing* joint process/programmatic approach to reduce duplicative actions in FY19? If yes, provide at least one example.

No opportunity.

If no, please certify below that your agency had no opportunity to apply the agency’s *existing* (as of January 2019) joint processes/procedures to qualify for a **“No Opportunity” (N/O)** assessment result for Question #4a.

NRC certifies that there was no opportunity.

⁸ Examples may be described in the textboxes provided, at a web link(s) entered in the textbox that goes directly to the relevant information, or in accompanying document(s) uploaded to the BPv-2 MAX.gov page with relevant page numbers provided in the textbox.

- b. Provide information on an opportunity your agency explored in FY19⁹ to create a *new* joint process/programmatic approach to reduce duplicative actions, and any decisions made about the viability of such an opportunity.

No opportunity.

5. (Skip if response to Question #1 is **no**) Was the implementation of your agency's procedure/process as described in Question #1 evaluated?¹⁰

No, as the process (MOU with the USACE) was not implemented on any covered projects.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

N/A

- b. If yes, what were your agency's findings, and were potential improvements identified?

N/A

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

N/A

⁹ For FY19, the expectation for this BP is that all agencies will explore opportunities to create new joint processes/programmatic approaches to reduce duplicative actions.

¹⁰ This evaluation could be internal or external (not including evaluation by OED).

FY19 ARC Stage Assessment Indicator Questions: BP vi-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

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.”³

Per the FY19 BPAT (p. 26), in FY19 agencies are to “establish a library⁴ and begin populating it with new or existing tools and other relevant information, or conduct maintenance on an existing library, making improvements as necessary.”⁵

1. Does your agency have a consolidated resource library that is publicly available and includes, but is not limited to, the items listed below to provide transparency to infrastructure ERA processes for all agencies and the public:
 - a. Instructions for application processes/consultation processes,
 - b. Information on the agency’s decision-making criteria for ERA processes, and

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 26.

⁴ “Existing agency policy and approaches on sensitive or proprietary information remain in effect for all information sharing” (*ibid*).

⁵ For example, agencies could chose to put information from other BPs into its resource library, such as the ERA resource documents (as described in BP ii-1), information about their pre-application/pre-official review processes (as described in BP i-2), and/or information about joint processes and procedures (as described in BP v-2).

- c. Information on the types of analysis⁶ the agency conducts on project sponsor/applicant-provided information?

If yes, please also provide a link below to the consolidated resource library.

Yes.

NRC has a webpage with a digital library that contains all information on environmental siting (<https://www.nrc.gov/reading-rm.html>).

The NRC has its environmental review guidance publicly available online to facilitate knowledge sharing (<https://www.nrc.gov/reading-rm/doc-collections/reg-guides/environmental-siting/rq/>). This link provides a webpage with links to approximately 25 NRC guidance documents related to environmental siting intended for applicants. These guides include:

- RG 4.1, “Radiological Environmental Monitoring for Nuclear Power Plants”
- RG 4.2, “Preparation of Environmental Reports for Nuclear Power Stations”
- RG 4.7, “General Site Suitability Criteria for Nuclear Power Stations”
- RG 4.9, “Preparation of Environmental Reports for Commercial Uranium Enrichment Facilities”
- RG 4.11, “Terrestrial Environmental Studies for Nuclear Power Stations”
- RG 4.14, “Radiological Effluent and Environmental Monitoring at Uranium Mills”
- RG 4.24, “Aquatic Environmental Studies for Nuclear Power Stations”

In addition, the NRC’s publicly available information includes NUREGs (<https://www.nrc.gov/reading-rm/doc-collections/nuregs/>). NRC updates the NUREGs and regulatory guides on a periodic basis. These include:

NUREG-1748, “Environmental Review Guidance for Licensing Actions Associated with Nuclear Material Safety and Safeguards Programs,” which discusses the process of preparing an EIS, from developing a project plan through scoping, consultations and public meetings, to preparing the Record of Decision; and,

NUREG-1555, “Standard Review Plans for Environmental Reviews for Nuclear Power Plants: Environmental Standard Review Plan,” which provides guidance for the environmental reviews of construction permits, initial operating licenses, early site permits, and combined licenses for new nuclear power plants.

Although the NUREGs are prepared as staff guidance, these documents are made available to the public as part of the Commission's policy to inform the nuclear industry and the general public of regulatory procedures and policies.

The above documents and thousands of others are available from NRC’s

⁶ Each agency can choose to share at the project or review type level.

Agencywide Documents Access and Management System (ADAMS). ADAMS is the agency's official recordkeeping system through which the NRC provides access to searchable collections of publicly available documents. In addition to publicly available regulatory guidance documents, ADAMS contains staff evaluations of applicants' analyses contained in past applications that have been accepted by staff and may be used as examples to inform future applicants.

2. (Skip if response to Question #1 is yes) Has your agency begun or continued developing the consolidated resource library as described in Question #1?

N/A

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is no) Is there information you could legally share that you have not yet that would increase the transparency of the ERA process(es)? In your response, please describe briefly how your agency evaluated if there was additional information you could legally provide that would increase the transparency of the items listed in Questions #1b and #1c.⁷

No. The NRC provides publicly available documents on the Agencywide Documents Access and Management System (ADAMS), which is the NRC's official recordkeeping system.

NRC has a transparent ERA process to provide the project sponsor and the public with an understanding of the agency's environmental review process. The NRC's process for determining if information can be made publicly available is contained in Management Directive 3.4, "Release of Information to the Public." The NRC evaluates the need for additional environmental guidance and makes it publicly available. For example, the NRC is in the process of developing interim staff guidance for micro-reactor reviews. The process for developing this guidance involves soliciting stakeholder input and developing draft guidance for public comment. The guidance is not made public until it is issued for public comment.

4. (Skip if response to Question #1 is no) How did your agency increase transparency of the consolidated resource library to the public? For example, how did your agency make stakeholders aware of the resource library and structure the resource library to increase ease of finding information?

⁷ OED will evaluate the information provided in the consolidated resource library to determine if it increases the transparency and predictability of the ERA processes as described in Question #1.

NRC strives to be as transparent as possible, including through outreach to stakeholders on a case-by-case basis. In addition, NRC's resource library is regularly updated and accessible from the agency's public homepage. NRC's transparency initiative is described on its website (<https://www.nrc.gov/public-involve/open/transparency.html>).

5. (Skip if response to Question #1 is no) Was the effectiveness of the consolidated resource library for increasing transparency of the agency's ERA processes as described in Question #1 evaluated?⁸

The NRC's website routinely receives public feedback for improving the information on its website and adding information to its environmental resource library.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

NRC's Office of the Chief Information Officer evaluates this information to periodically update, check and enhance the information on NRC's public website and resource library.

- b. If yes, what were your agency's findings, and were potential improvements identified?

The feedback does not typically identify functional potential improvements to the resource library on the NRC's homepage; however, new documents are periodically added to the library. Updates to the NRC's website included public meeting notifications and participation information, notification of upcoming conferences, and a "News and Features" section with information and updates related to nuclear-related news items.

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

NRC has recently added pages and information to the publicly available resource library including Document Collections, Photos and Video and to the NRC's publicly available Agencywide Documents Access and Management System (ADAMS) recordkeeping system.

⁸ This evaluation could be internal or external (not including evaluation by OED).

FY19 ARC Stage Assessment Indicator Questions: BP vii-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

BP vii-1: “Make training materials (e.g., print, video, and/or presentation materials) about FAST-41 implementation available online or provided in person each year and available to Federal, State, and tribal governments and local permitting officials³. The training materials 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, pre-application).”⁴

Per the FY19 BPAT (p. 29), no agency can receive a “No Opportunity” (N/O) assessment result for this BP, as each agency can train either on FAST-41 program implementation or on implementation of one or more FY19 BPs.

Providing information for up to two trainings may demonstrate to the OED assessors of further progress in implementing the BP’s intent.

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ Per the FY19 BPAT (p. 28), “Agencies will implement this BP by providing training specifically related to implementing FAST-41 or providing training specifically related to implementing one or more FY 2019 BPs that improve the ERA process for infrastructure projects.”

⁴ FY19 BPAT, p. 28.

Per the FY19 BPAT (p. 28), an agency can choose to implement this BP using online or in-person training. Recognizing the difference between live⁵ trainings and online trainings, this questionnaire asks agencies to describe live training in Question #4a (but not #4b) and online training in Question #4b (but not #4a).

1. In FY19, did your agency have an established or existing training regarding either implementation of the FAST-41 program or of one or more of the Permitting Council's FY19 BPs for Federal, State, and tribal governments and local permitting officials?⁶

Yes.

The NRC conducts an annual Regulatory Information Conference (RIC) to present information and discuss current topics of mutual interest. The RIC is a free conference open to interested stakeholders and the public. At the March 2019 RIC, "Session W23 – All Things NEPA—Past, Present, and Future" included a lengthy discussion on "Federal Environmental Review and Authorization Process Streamlining: FAST-41 and E.O. 13807." It was immediately followed by a question and answer session ([link here](#)).

At Session W23, the following topics were included:

- New Reactor Guidance Updates and EIS Lessons Learned;
- Federal Environmental Review and Authorization Process Streamlining: FAST-41 and E.O. 13807;
- Preparation for Advanced Reactors Environmental Reviews, including Integration of NEPA Processes; and,
- Nuclear Energy Institute Perspective: Streamlining NRC Environmental Reviews.

In FY19, the NRC also posted a publicly available web page called "NRC's Environmental Review Process" that describes the NRC's process in the context of FAST-41 and E.O. 13807 processes ([link here](#)). The web page explains to Federal, State, and tribal governments and local permitting officials how the NRC implements FAST-41 or E.O. 13807 through its environmental reviews of license applications for new reactors and facilities that contribute to the nuclear fuel cycle.

⁵ Live training involves an instructor and the ability of the audience to ask questions (whether virtual or in-person).

⁶ The BP's intent is that training materials are made available to Federal, State, and tribal governments and local permitting officials, include the agency informing these groups that the training materials exist and where they are available. Each agency determines the appropriate audience of its training.

2. (Skip if response to Question #1 is **yes**) In FY19, did your agency begin or continue developing training as described in Question #1?

N/A

- a. If yes, please provide some details below about where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. (Skip if response to Question #1 is **no**) Please describe how your agency determined the appropriate learning objectives and intended audiences for up to two training(s) described in Question #1⁷.

FY19 Training #1:

Prior to the commencement of the RIC, the NRC issues an invitation to potential participants by posting it to the NRC's RIC webpage ([link here](#)). As stated previously, the RIC is open to the public. The objectives for the 2019 RIC were shaped by the NRC's efforts in evaluating its regulatory approaches, mindset, and culture in an effort to become more innovative in the implementation of its safety and security missions.

Specifically, the RIC session that focused on NEPA's past, present, and future served the interests of many RIC attendees who play a role in NRC's environmental review process. New changes to the environmental review process related to FAST-41 and E.O. 13807 made this an especially engaging topic and a timely opportunity to share insights and lessons learned with the RIC audience.

FY19 Training #2:

As discussed in Question #1, the new webpage titled "NRC's Environmental Review Process" provides a timely teaching tool about how the NRC incorporates FAST-41 and E.O. 13807 into its reviews. This tool helps meet the needs of our audience by making relevant information about FAST-41 and E.O. 13807 easily accessible.

⁷ An agency that conducts live training would only need to provide the same live training program multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the intended audience and learning objectives of up to two discrete times/locations that the live training was conducted.

4. *(Skip if response to Question #1 is no)* In FY19, did your agency hold one or more⁸ live trainings or make available online trainings as described in Question #1?⁹

Yes, the RIC sessions discussed in response to Question #1 were live, and were recorded and are available online. The FY19 RIC Session W23 has been posted to NRC's publicly available webpage ([link here](#)). The webpage titled "NRC's Environmental Review Process" is available on the NRC's website ([see link](#)).

- a. *(Skip if your agency chose to implement BP using online training)*. If yes, please describe how each training¹⁰ was made available to the intended audience. Also, provide a record on MAX.gov of the execution of the live training.

FY19 Live Training #1: N/A

FY19 Live Training #2:

N/A

- b. *(Skip if your agency chose to implement BP using live training)*. If yes, please describe how each training was made available to the intended audience. Also, provide a functional link to the online training below.

FY19 Online Training #1:

N/A

FY19 Online Training #2:

N/A

5. *(Skip if response to Question #1 is no)* Was the implementation of the training described in Question #1 evaluated?¹¹

⁸ Providing information for two trainings may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁹ OED expects agencies to inform the intended training audience of the available training as part of "making training materials" available.

¹⁰ An agency that conducts live training would only need to provide the same training multiple times in order to demonstrate to the OED assessors further progress in implementing the BP's intent. For this situation, an agency would use the two textboxes to explain the two times/locations that the live training was conducted.

¹¹ This evaluation could be internal or external (not including evaluation by OED).

Yes, all NRC trainings provide evaluation forms for the participants to provide feedback. This is a standard practice for all NRC training.

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

All stakeholder feedback from the RIC was compiled and evaluated by staff and senior management to improve and enhance future training/conferences and topical sessions. Feedback collected from stakeholders includes an evaluation of the conference facility itself, topical content of the training sessions, and the effectiveness of the session coordinators, chair, and speakers which is collected and used for input into a final summary report.

- b. If yes, what were your agency's findings, and were potential improvements identified?

The final RIC report derived from the feedback from all sessions is used by staff to propose high level findings to senior management for consideration of future topics and training sessions. Potential improvements identified for future conferences and informational training sessions from feedback and internal assessments include the following:

Session Format

- In addition to the standard presentation and panel discussion formats, new options include fireside chats and TV-host style formats. Consider ideas for mini-talks on different topics and presented in a TED talk-like format.
- Divide session time (90 minutes) into 40% presentation/discussion and 60% question/answer to allow more time for in-depth Q/A.

Selection of a Session Chair, Coordinator, Speaker(s), and Digital Exhibitor(s)

- Designate dynamic individuals who have technical expertise, strong communication skills, creativity, and who are willing to invest the time to ensure a successful session. Enthusiasm and innovative thinking are qualities that are strongly encouraged to make sessions more interactive and engaging.

Speakers

- Invite non-NRC speakers who offer fresh viewpoints or different perspectives.
- Limit the number of speakers to three, in addition to the NRC Chair, for a total of four.
- Broaden the speaker pool by inviting new speakers.
- Consider including one speaker from the international community in panel discussions to broaden the international perspective.

Slide Presentations (for both technical sessions and digital exhibits)

- Limit presentation slides to 1 minute per slide (e.g., a 5-minute presentation would have five slides).
- Consider using infographics, motion graphics, transitions, animations, video,

etc., rather than bullets, but balance between the amount of graphics/animations and text.

Use of Technology and Delivery Enhancements

- The NRC places considerable emphasis on providing an interactive and engaging experience for the audience, therefore, session development should consider:
 - Use of Technology: live polling, live (interactive) hands-on demonstration, etc.
 - Delivery Enhancements: webinar, event (lunch/learn) etc.

Digital Exhibits

- In addition to the digital exhibits, add a new “demo” option for live (interactive) or hands-on demonstrations (i.e., equipment, devices, etc).

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

Planning is currently underway for the 2020 RIC based on feedback and the enhancements as described in Question #5b above for consideration in developing future informational training sessions.

FY19 ARC Stage Assessment Indicator Questions: BP viii-1

The following **Stage Assessment Indicator Questions (questionnaire)** serves as the fiscal year (FY) 19 Annual Report to Congress (ARC) data call mentioned in the FY19 Best Practices Assessment Tool (BPAT)¹. Each questionnaire is specific to a particular best practice (BP) and was derived from the FY19 BPAT Attachment A “Stages for Implementation” and that BP’s “Intent and Assessment.” For more information on the way in which the Federal Permitting Improvement Steering Council – Office of the Executive Director (OED) will be assessing agency responses, please refer to the BP’s **FY19 OED Assessor Tool**. Agencies will submit completed questionnaires² (and accompanying documentation, such as screenshots or existing processes/procedures) on MAX.gov.

If the assessment laid out in the FY19 BPAT does not capture the method an agency already implements (or will implement) to meet the intent of a particular BP, the agency may apply an alternative approach to meet the intent of the BP. For more information, agencies should refer to OED’s instructions concerning the **Alternative Approach Template**.

BP viii-1: “Identify measures planned or taken by the Agency in the outreach section of the CPP to increase the probability of reaching the stakeholders for stakeholder engagement (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).”³

It is a statutory requirement to Include the plan and schedule of outreach in the CPP, so the lead agency’s most recent CPP will be used as a data source in addition to the questions and provided documents outlined below.

Was your agency legally required to do any public outreach for its environmental reviews and authorizations (ERAs) for FAST-41 covered projects in FY19?

If yes, fill out questionnaire below.

If no, certify below that your agency had no legal requirements for outreach on FAST-41 projects in FY19. Your agency will receive a “No Opportunity” (N/O) assessment result for this BP and does not need to complete the questionnaire.

NRC certifies that there was no opportunity for a covered project.

¹ Available at: https://community.max.gov/x/zBn_Yg.

² To minimize agency burden in providing FY19 ARC inputs, OED expects that responses totaling 300 to 400 words for each BP questionnaire should provide a sufficient level of detail for OED’s assessment.

³ FY19 BPAT, p. 29.

Questionnaire: Agencies with public outreach requirements on FAST-41 projects in FY19

1. Did your agency utilize multiple methods of stakeholder engagement for FAST-41 covered projects?

N/A

2. *(Skip if response to question #1 is yes)* Did your agency begin or continue planning for implementing multiple methods of stakeholder engagement for each time stakeholder engagement is required for its FAST-41 covered project(s)?

N/A

- a. If yes, please describe where your agency is in the process of development (e.g., assigning responsibilities or establishing a timeline).

3. *(Skip if response to question #1 is no)* Do one or more⁴ of your agency's most recent project CPPs describe how your agency planned to conduct multiple outreach methods each time the agency needed to conduct stakeholder outreach for those projects during FY19?

N/A

- a. If yes, please indicate the project(s) that your agency prefers OED review.

FAST-41 CPP for Project #1:

FAST-41 CPP for Project #2:

4. *(Skip if response to question #1 is no)* For each applicable project, please briefly describe⁵ the multiple methods of stakeholder engagement and provide a record⁶ of outreach to the public on MAX.gov.

FAST-41 Project #1:

N/A

⁴ Providing information for two projects may demonstrate further progress in implementing the BP's intent to the OED assessors.

⁵ For example, what types were used, to which part of the ERA processes they were employed, who the desired audience was, and when the outreach occurred. To identify the engagement methods, your agency may provide a description, refer OED to a project's CPP with page numbers, or provide a link to publically available document and reference the applicable page numbers.

⁶ A record of the outreach to the public could be meeting agenda or a sample email (FY19 BPAT, p. 30).

FAST-41 Project #2:

N/A

5. (Skip if response to question #1 is **no**) Were the multiple methods of stakeholder outreach evaluated for effectiveness in increasing the probability of reaching stakeholders?⁷

N/A

- a. If yes, when and how was the effectiveness of your agency's new or existing/established process assessed?

- b. If yes, what were your agency's findings, and were potential improvements identified?

- c. If your agency identified potential improvements, what recent progress has been made or what improvements are planned going forward?

⁷ This evaluation could be internal or external (not including evaluation by OED).

BP VIII-2 (NRC)

Created by Jennifer Fowmes(GSA, Ctr) on Jun 28, 2019

Overview	Assessment
<p>To meet the intent of fiscal year 2019 (FY19) best practice (BP) viii-2, each agency will present at a Working Group Meeting "on past and planned efforts to improve the ERA processes and performance metrics by Agencies sharing lessons learned" (FY19 Best Practices Assessment Tool, (BPAT) page 30). During the Working Group Meeting presentations, each agency should present on lessons learned or improvements/innovations it made to improve the efficiency, transparency, predictability, and/or accountability of any environmental review or authorization (ERA) process(es) that could be applicable to infrastructure projects. While an agency could present on an innovative approach for meeting one or more FY19 BPs, the BP viii-2 presentation is an opportunity for agencies to present about work planned or implemented to improve the ERA processes for infrastructure projects that is beyond the FAST-41 BPs, projects in FY19, and/or even FAST-41 projects. An agency could present about a programmatic solution or a program (FY19 BPAT, page 31) or could discuss reducing or removing a component of an ERA process that was determined to be no longer beneficial.</p>	<p>For FY19 ARC, FPISC-OED will assess if each agency's Working Group Meeting presentation in FY19 provided sufficient details of the lesson learned/problem solved and benefits of the solution so that other agencies can consider how adopting the innovation or process improvement might benefit them. To facilitate information sharing, agencies should upload any presentation materials to their BP viii-2 pages. Per the FY19 BPAT (page 30), there will be no data call/questionnaire for BP viii-2.</p>
	Presentation Sign-ups
	<p>Agencies should sign up for a Working Group presentation date on MAX.gov: https://community.max.gov/x/fl2Yw.</p>

No labels

Completed July 16, 2019 with Jack Cushing's NEI 10-07 presentation to FPISC at the July 16, 2019 External Workgroup Meeting facilitated by OMB.

The presentation has been posted to MAX.gov by OMB ([link to presentation](#)).



An NRC Pre-application Best Practice

Jack Cushing
Senior Project Manager
Office of New Reactors

Pre-Application Interaction

- Encouraged by regulations - 10 CFR 51.40, Early Consultation-Voluntary
 - Staged engagement starting 18 months before application. Increasing engagement with additional subject matter experts.
 - Prepare by engaging State and Federal permitting agencies ([NEI 10-7](#))
- Engage industry to develop guidance for applicants to engage agencies other than NRC
- Goal high quality application that considers needs of other permitting agencies.

NRC Experience

- In one case, State would not provide the Coastal Zone Management Act certification due to concern about water use. Result applicant modified design to reduce water use. NRC needed to issue a supplemental EIS.
- In another case, applicant did not engage with USACE to avoid wetlands when siting the plant. Result applicant had to relocate the plant on site to avoid the wetlands. Delayed review

What did the NRC Do?

- NRC engaged the nuclear industry to develop guidance for applicant's to consider other Federal, State and Tribal agencies concerns when developing their project.
- NRC held meetings with the Nuclear Energy Institute (NEI), EPA, USACE, FWS, ACHP, Bureau of Land Reclamation, and the Commonwealth of Virginia.
- In the meeting the agencies described their role.
- NEI developed [NEI 10-07, Industry Guideline for Effective Interactions With Agencies Other Than NRC During the Early Site Permit Process \(ADAMS Accession No. ML13028A392\)](#)

Best Practice

- Industry developed the guidance – result industry buy in to process.
- Applicants engage with other agencies when developing project and during review.
- Plan to use NEI 10-07 during FAST-41 and EO 13807 projects.
- Coordinated pre-application with applicant and all federal agencies cooperating on EIS.



Questions?

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Analysis

Office of New Reactors

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FY 19 BP viii-2 Lessons Learned presentation

Sept 10th, 2019



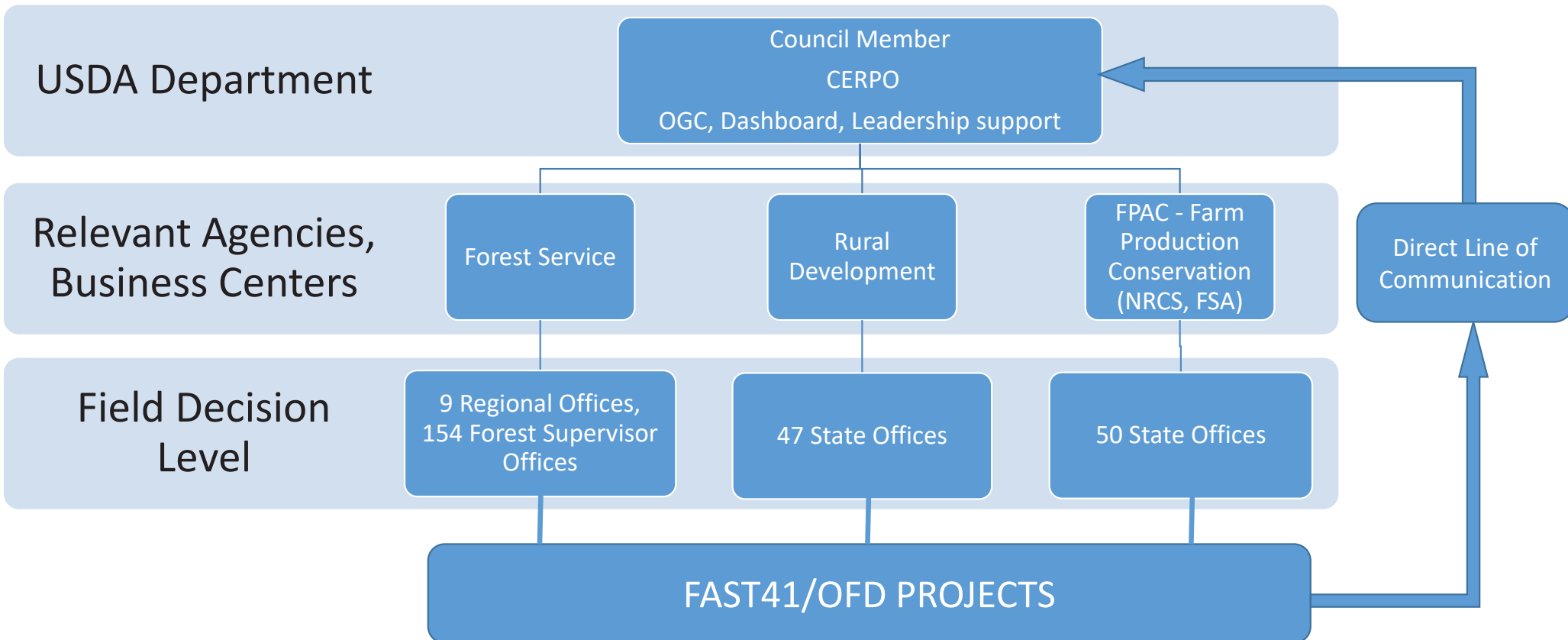


2019 USDA Environmental Review and Authorization Improvements

- **Revised Organizational and Internal Process Structure**
- **Proactive Management of Projects and Coordinated Timelines**
- Streamline internal review processes, responsibilities and project documentation
- Pre-NOI activities – Project Coordination Plans, Project proponent checklists
- Programmatic agreement for sequencing section 106
 - Successful role out to field – amending the agreement to include other USDA programs
- Established Indefinite Delivery Indefinite Quantity contracts for EISs
- **Implementing Process Enhancements** – Forest Service Environmental Assessment and Decision Making - EADM
- **Identifying Land Use Planning Considerations**



FAST41/OFD - Structure





USDA Projects

Type	Project	Role	Lead Dept	Bureau /Mode	Sector
OFD	Caribou-Targhee National Forest, Idaho; Lower Valley Energy Crow Creek Pipeline Project	Lead	USDA	USFS	Pipeline
OFD	Nebraska Department of Transportation U.S. Highway 275 West Point to Scribner Project	Coop	USACE	FPAC	Transportation
OFD	Jordon Cove Pacific Connector Gas Pipeline	Coop	FERC	USFS	Pipeline
FAST 41	Cardinal-Hickory Creek 345kV Transmission Line	Lead	USDA	RD	Elec Transmission
FAST 41	Boardman to Hemingway Transmission Line	Coop	USDA	USFS	Elec Transmission
FAST 41	Mid-Barataria Sediment Diversion	Coop	USACE	FPAC	Water Resources
FAST 41	Mid Breton Sediment Diversion	Coop	USACE	FPAC	Water Resources
FAST 41	Plains Pipeline	Coop	DOI	USFS	Pipeline
FAST 41	Mountain Valley Pipeline	Coop	FERC	USFS	Pipeline
FAST 41	Atlantic Coast Pipeline	Coop	FERC	USFS	Pipeline
OFD	Pre-NOI – McClellanville Transmission Line	Lead	USDA	RD	Elec Transmission
OFD	Pre-NOI – Lake Elsinore Advanced Pump Storage	Coop	FERC	USFS	Water Resources

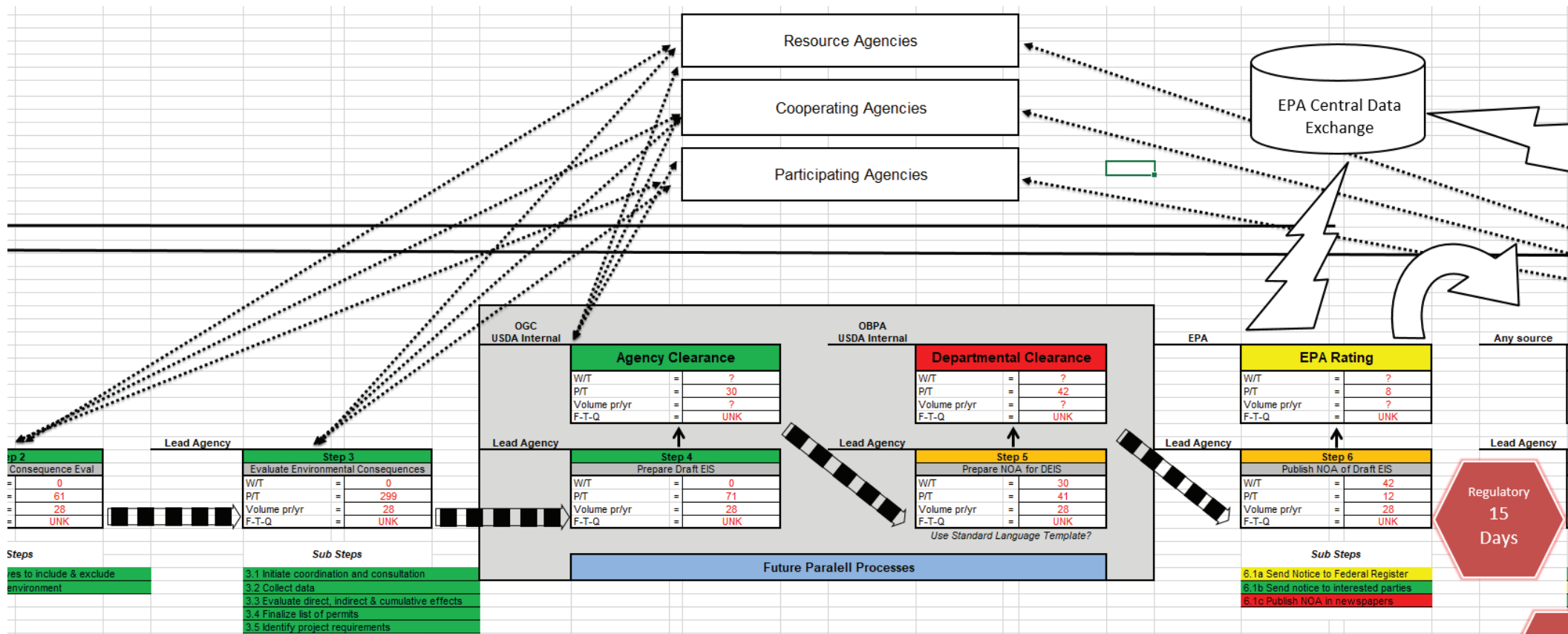


FAST41/ OFD – CERPO Role

- Lines of **communication** directly linked to project managers in the field
- **Support** to decision makers in the field
- **Early coordination** of projects in the field
- Concurrence Points – meet the intent of better coordinated joint EISs
- Dispute resolution – identified and solved before they become major delays
- Pathway to process enhancements, policy and statutory improvement
- Relationships among all agency CERPOs, CEQ, OMB and FPISC
- Increase **capacity** to do work



OFD – Value Stream Map Example





FAST41/OFD – Timeline Template

USDA Permitting timetable template

- 1 – Pre-NEPA Process
- 2 – Perform EIS Planning
- 3 – Prepare NOI
- 4 – Publish NOI

Public comment period – 45d

- 5 – Perform Formal Scoping – 15d
- 6 – Pre-Environmental Consequence Evaluation - 45d
- 7 – Evaluate Environmental Consequences – 180d
- 8 – Prepare draft EIS – 45d
- 9 – Prepare NOA for Draft EIS – clearance – 30d
- 10 – Publish NOA for Draft EIS – 12d

NOI to DEIS Sub-total = 12.5 months

- 11 – Conduct public review process – 75d
- 12 – Prepare final EIS – 120d
- 13 – Prepare NOA for Final EIS – clearance – 30d
- 14 – Publish NOA for Final EIS – 10d

Public comment period – 30d

DEIS to FEIS Sub-total = 9 months

- 15 – Prepare ROD and NOA – 45d
- 16 – Publish ROD – 14d

FEIS to ROD Sub-total = 2 months

**Total permitting timetable length =
23.5 months**

Achieved to the maximum extent practicable and permitted by law and regulations.



Process Enhancements USFS EADM

OVERALL GOALS

- Reduce time and cost of **E**nvironmental **A**nalysis and **D**ecision-**M**aking
- Get more work done on the ground
- Long-lasting **C**hange in agency practice and culture

KEY PRINCIPLES

- Engage **P**artners
- Take Full Advantage of **E**xisting **T**ools
- Promote Culture of **I**nnovation
- Be **B**OLD in decision-making



USFS EADM – Focus Areas



Regulatory & Policy Reform

Revision of NEPA regulations, manuals, and handbooks.



Business Practices

Center of Excellence for NEPA contracting
Programmatic agreements for ESA and SHPO consultation



People and Culture

Trained 1,200+ Employees

- NEPA Leadership
- Advanced Effects
- Legal Foundation
- ESA class



USFS EADM

Outcomes to Date

 time from FY2016



FY2017 & FY2018

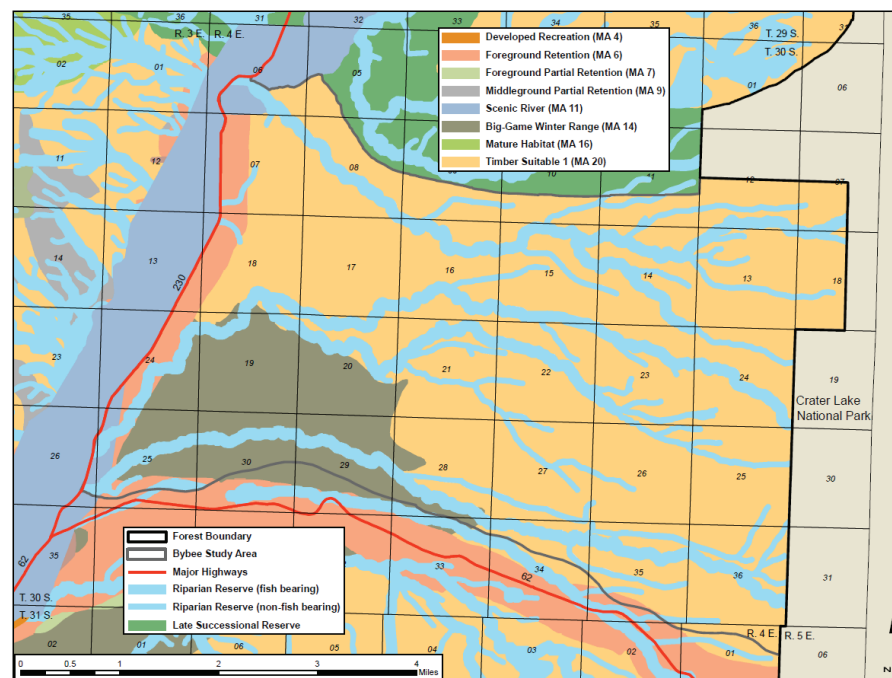


**65% improvement
from FY2016**



Aligning Land Use Planning Considerations

- Identified USFS Governing Laws: Organic Act, MUSY, and NFMA
 - Land Use Zoning and Resource Management Plans
 - Project conformance required by law
- Steps taken to align with OFD/FAST41
 - Initial Consistency Analysis
 - Forest Plan Amendments and Revisions
 - Creating more flexible standards
 - OGC support for less revisions (game changer)
 - Early Coordination and additional concurrence points
 - Aligning regulatory actions under planning and NEPA





USDA Points of Contact

Questions?		
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