Permitting Council Member Agency Self-Assessment

Agency Input to FPISC's FY 2020 Annual Report to Congress
Due to FPISC OED by October 14, 2020
Form based on template provided in the FY 2020 Best Practices Report

INSTRUCTIONS

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

The FY 2020 Best Practices Report directs each agency's Permitting Council member to provide an accurate assessment of the agency's actions and associated outcomes that meet the intent of all applicable BPs, as certificated by each Permitting Council member.

Note: Agencies are also encouraged to identify and submit "alternative BPs" to FPISC OED by August 28, 2020 for approval. These alternative BPs should reflect where the agencies have implemented process improvements that meet the statutory BP categories but not one of the specific BPs identified in the FY 2020 BP Report.

Agencies are to complete the below self-assessment for each of the three required headings: (1) Permitting Council Best Practice Implementation, (2) FAST-41 Project-Specific Permitting Improvements/Outcomes, and (3) Permitting Process Improvements (General).

FPISC OED requests that each agency submission be internally coordinated with the Permitting Council member and Chief Environmental Review and Permitting Officer (CERPO), as well as with the communications, legislative affairs, and office of general council staff to ensure submissions have been reviewed for publication and testimony-ready language for use by Administration officials.

Please adhere to the word count limits as noted for each section below, while thoroughly reflecting your accomplishments and challenges and providing links or citations, as appropriate. Please note, agencies are required to fill in each section. For FY 2020, FPISC OED is instituting a new, more nuanced and scaled approach to evaluating agency performance toward implementing the BPs. The Appendix of this form includes example models for submissions. Ideally, agencies will have examples of BP implementation across more than one project, applied to all efforts, and additional, project-specific examples. Provide as many relevant examples as possible.

FPISC OED will be providing opportunities for pre-submission check-ins to help ensure agency submissions meet all requirements, accomplish the objectives as stated in the FY 2020 BP Report and FY

2019 ARC, and fully capture the work and accomplishments of agency actions to improve permitting processes.

SUBMISSIONS

Please complete this form by **5:00 p.m. on October 14, 2020** by emailing it to Fast.FortyOne@fpisc.gov **and** volpe_fpisc@dot.gov. If you have questions, please contact Jordan Wainer Katz at Jordan.Katz@dot.gov.

AGENCY INFORMATION

Agency:

Name of Agency CERPO:

Email address of Agency CERPO:

Agency submitter (if different from agency CERPO):

Submitter email address:

*If this form is submitted by a Permitting Council member's designee, please provide a delegation memo with the self-assessment submission.

SECTION 1. EXAMPLES OF BP IMPLEMENTATION

While FPISC OED does not require an implementation narrative for each BP category, it encourages each member agency to highlight its successes and challenges for each category. This can be in the form of identifying positive outcomes from implementation of a BP during FY 2020 or from identifying where a BP did not prevent the issue it was intended to prevent and how the agency or Permitting Council may want to consider addressing that. The specific BPs to be reported on are listed in Table 1 of the Fiscal Year 2020 Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects. Please note, BP Categories and BPs have been shortened in the dropdowns for ease of use.

Agencies are also encouraged to identify and submit "alternative BPs" that reflect where the agencies have implemented process improvements that meet the statutory BP categories but not one of the specific BPs identified in the FY 2020 BP Report. Alternative BPs should be submitted to FPISC OED by August 28, 2020 for approval before submitting the BP through this form. If your alternative BP has been approved, please choose "Alternative BP" from the "Corresponding BP" drop-down menu below for the appropriate entry.

Please adhere to a word count limit of 200 words per BP example in this section (i.e., if you provide examples of implementation of four BPs, please use four template boxes below for a total word count of 800 words), while thoroughly reflecting your accomplishments and challenges. Provide links and/or citations as appropriate, and provide as many relevant examples as possible. If you would like to provide more than four examples of BP implementation, please contact FPISC OED for a supplemental form.

Best Practice Category: (i) Early stakeholder engagem	Corresponding BP: i.1 Early stakeholder engagem

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SECTION 2. FAST-41 PROJECT SPECIFIC PERMITTING IMPROVEMENTS/OUTCOMES

This section should highlight examples from specific projects. Please include agency innovations, initiatives, successes, and identification of and resolution to challenges. Agencies are encouraged to report on FPISC OED recommendations from the FY 2019 ARC (See OED Assessment, Part 2).

Please adhere to a total word count limit of 300 words for this section, while thoroughly reflecting your accomplishments and challenges. Provide links and/or citations as appropriate. Provide as many relevant examples as possible in the space provided below.

SECTION 3. PERMITTING PROCESS IMPROVEMENTS (GENERAL)

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

Please provide a narrative for each process improvement in a separate section below. Please adhere to a total word count limit of 300 words for this section, while thoroughly reflecting your accomplishments and challenges. Provide links and/or citations as appropriate. Provide as many relevant examples as possible in the space provided below.

This information has been reviewed by the Permitting Council Member and CERPO, and others as necessary (public affairs, legislative affairs, office of general counsel staff). I understand that this information will be used as submitted in the FPISC Annual Report to Congress and is testimony-ready for use by Administration officials. ☐

CERPO Name (or designee)	Signature

SUBMIT

APPENDIX A. EXAMPLE FORM

SECTION 1. PERMITTING COUNCIL BEST PRACTICE IMPLEMENTATION

Template Language

Best Practice Category [drop down menu]	Corresponding Best Practice [drop down menu]
Agency X identified [insert brief description of the purpose of BP implementation/ specific challenge or opportunity for improvement to be addressed by (proposed) BP implementation]. In FY 2020, Agency X [insert initiatives/actions taken to implement the best practice or BP category and what agency staff or other partners were involved]. This led to [identify how the agency initiatives/actions improved the timeliness, predictability, and transparency of applicable permitting processes (e.g., time and money saved by project sponsors or agencies or anecdotal observation of improvements).] Agency X is [committed to continued action/looking into incorporating lessons learned/taking the following next steps to continue progress or identify/address challenges that came up with BP implementation].	

Example

Vii: Creating and distributing training materials useful to Federal, State, Tribal, and local permitting officials	Corresponding Best Practice [drop down menu]
AgencyY identified that early coordination with stakeholders could improve the efficiency of the Section Y process, but sufficient training resources were not available to consultants, applicants and agency staff. In FY 2020, AgencyY developed a handbook and free online web training targeted at consultants and applicants to develop understanding and skills needed to interact with and work with stakeholders early in the Section Y process. According to feedback received from attendees, the additional training opportunities and materials have helped increase early coordination with stakeholders. This is expected to result in earlier identification of potential adverse impacts so that agencies and project applicants can consider these potential impacts early in the design process, and work to avoid and minimize any potential adverse impacts as the proposed design evolves. AgencyY plans to solicit feedback from consultants, applicants, agency staff participants as well as stakeholders for recommendations on how these materials could be further refined or if any additional information should be included over the course of the next fiscal year.	

SECTION 2. FAST-41 PROJECT SPECIFIC PERMITTING IMPROVEMENTS/OUTCOMES

Template

Project Name

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

Example

NEXUS Gas Transmission Project and Texas Eastern Appalachian Lease Project

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

Gateway West Transmission Line Project

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

SECTION 3. PERMITTING PROCESS IMPROVEMENTS (GENERAL)

Template Language

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

Example

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

APPENDIX B. STATUTORY BP CATEGORIES[1] AND RECOMMENDED BPS FOR FY 2020[2]

(i) Enhancing early stakeholder engagement, including fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project.

BP i.1 The agency should establish and implement or utilize one or more approaches for proactively engaging stakeholders, before required by statute or regulation, to initiate dialogue on early identification of potential issues. The agency may, but is not required to, use past experience to develop an initial list of stakeholder contacts. Agencies should solicit involvement of other agencies in the early stakeholder engagement as appropriate and allowed by applicable laws and regulations.

BP i.2 The agency should utilize or establish preapplication/pre-official review processes to allow project sponsors/applicants the opportunity to provide/communicate project-specific information to the agency and relevant other Federal agencies, Tribes, involved State agencies, and relevant local government entities prior to initiation of official review processes (e.g., submission of application or other initiation of the ERAs).

(ii) Ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics.

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.

(iii) Improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies.

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.

(iv) Increasing transparency.

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.

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[1] 42 U.S.C. § 4370m-1(c)(2)(B)

[2] Fiscal Year 2020 Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects (Table 1). Please note, agencies are encouraged to submit alternative BPs that capture agency process improvements that meet the statutory BP categories but are not necessarily captured by the specific BPs in the FY 2020 BP Report.

(v) Reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties.

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.

BP v.2 Develop, enhance, and/or use joint processes or programmatic approaches among Federal agencies, and with State, local, and tribal governments with similar authorities. Joint processes could reduce duplicative actions (e.g., related to data collection and analysis) or include joint environmental research and studies. Per 40 C.F.R. §1506.2(b), agencies should cooperate with State and local agencies to the "fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law."

(vi) Developing and making available to applicants appropriate geographic information systems and other tools.

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.

(vii) Creating and distributing training materials useful to Federal, State, tribal, and local permitting officials.

BP vii.1 Provide training (e.g., video and/or presentation materials) about FAST-41 implementation online or in person each year to Federal, State, and tribal governments and local permitting officials. The training should be related to implementation of FAST-41 or one or more of the Permitting Council's BPs (e.g., early stakeholder involvement, maintenance and communication of a project-specific ERA review schedule, establishment of common data sets, or pre-application processes).

(viii) Addressing other aspects of infrastructure permitting, as determined by the Council.

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

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