Infrastructure Permitting Modernization

Goal Leaders:

Andrew Mayock, Senior Advisor to the Director,
Office of Management and Budget;

Christina Goldfuss, Managing Director,
Council on Environmental Quality;

Victor Mendez, Deputy Secretary,
Department of Transportation

FY2016 Quarter 4

Overview

Goal & Vision Statement:

Modernize the Federal permitting and review process for major infrastructure projects to reduce uncertainty for project applicants, reduce the aggregate time it takes to conduct reviews and make permitting decisions, and produce measurably better environmental and community outcomes.

Problem:

Building a 21st-century infrastructure is a critical component of President Obama's effort to accelerate economic growth, expand opportunity, and improve the competitiveness of the American economy. As major infrastructure projects are proposed, Federal, State, local, and tribal entities work to consider and minimize potential impacts on safety, security, and environmental and community resources. For the majority of projects, these permitting and review requirements are accomplished efficiently and effectively. However, for particularly large and complex infrastructure projects, multiple permits and approvals can sometimes lead to lengthy reviews, inefficiencies, frictions, and delay.

Progress Update: Revised Action Plan to Support Implementation of FAST Act Title 41

As first noted in this goal's FY16 Q1 update, the strategies, milestones, and key indicators on the following pages have been revised in order to implement Title 41 of the [Fixing America's Surface Transportation Act (FAST Act)](#), "FAST-41," which was signed into law in December 2015. FAST-41 introduced new requirements aimed at improving the Federal authorization and environmental review process for covered infrastructure projects that built on and are broadly consistent with ongoing Administration actions.

Accomplishments:
Between July and September 2016, the CAP Goal team focused efforts on advancing several work-streams to meet statutory deadlines:
- Finalized appointment of and brought on board the Executive Director of the Federal Infrastructure Permitting Improvement Council
- Finalized the list of existing "covered projects" to be posted and tracked on the Permitting Dashboard
- Enhanced the Permitting Dashboard to meet FAST reporting requirements
- Updated milestone dates in this Q4 update now that the ED has been appointed and consulted.

Next Steps
In Q1 (Oct – Dec 2016), the CAP Goal team and partner agencies will remain focused on FAST-41 requirements, including:
- Working with 13 agencies and EOP entities to draft policy guidance for early consultation with project sponsors, development of coordinated project plans, and related FAST-41 implementation activities, replacing the September 2015 OMB/CEQ Permitting Dashboard Guidance
- Finalizing Coordinated Project Plans for covered projects and posting project-specific timetables on the Dashboard
- Hold first meeting of the Federal Infrastructure Permitting Improvement Council
- Publishing a report on Best Practices
- Publishing a Model Performance Schedule to be used as a baseline for covered projects

Goal Team Leaders and Partners

Executive Office of the President (EOP) Goal Leaders:

- Andrew Mayock, Senior Advisor to the Director, Office of Management and Budget (OMB)
- Christy Goldfuss, Managing Director, Council on Environmental Quality (CEQ)

Agency Goal Leader:

- Victor Mendez, Deputy Secretary, Department of Transportation (DOT)

Agency/Department Partners (represented by Deputy Secretaries or equivalent)*:

- Advisory Council on Historic Preservation (ACHP)
- Department of the Army
- Department of Agriculture (USDA)
- Department of Commerce
- Department of Defense (DOD)
- Department of Energy (DOE)
- Department of Homeland Security (DHS)
- Department of Housing and Urban Development (HUD)
- Department of the Interior (DOI)
- Department of Transportation (DOT)
- Environmental Protection Agency (EPA)
- Federal Energy Regulatory Commission (FERC)*
- Nuclear Regulatory Commission (NRC)*
- The Morris K. Udall and Stewart L. Udall Foundation

* While not part of the original CAP Goal Team, FERC and NRC are statutorily-designated members of the Federal Permitting Improvement Council that was established under Title 41 of the FAST Act. Slide 14 contains a complete list of participating agencies and affected programs.

Governance Structure for Federal Infrastructure Permitting Modernization Effort

The following bodies are responsible for overseeing execution and driving results for this goal:

- The *Infrastructure Permitting CAP Goal Team* oversees day-to-day goal implementation. It consists of staff from OMB's Office of Personnel and Performance Management, CEQ's National Environmental Policy Act (NEPA) team, and DOT's Office of the Secretary.

- The *Working Group* consists of operational staff from each agency partner and is convened to inform and advance goal-related policy development.

- The *Federal Permitting Improvement Steering Council* (the *"Council"*), established under FAST-41, is chaired by a Presidentially-appointed Executive Director and consists of Deputy Secretary-level representatives from 13 agency partners, as well as OMB and CEQ. The Council is charged with promoting and coordinating improvements across agencies, including developing recommended "best practices" for a range of permitting activities, such as early stakeholder engagement, timely decision-making, interagency coordination, and administrative burden reduction.

- Newly-designated Agency *Chief Environmental Review and Permitting Officers (CERPOs)* will perform statutory duties of advising the agency's Councilmember, facilitating timely reviews of "covered projects", recommending improvements, and training agency staff. CERPOs will also be responsible for ensuring that agencies meet the requirements for posting "covered project" information on the Dashboard and ensuring it is kept current.

Action Plan Summary

Strategies	Major Actions to Achieve Impact	Key Indicators
Strategy 1: Institutionalize Interagency Coordination and Transparency	**Develop Policies and Tools for Coordinated Federal Project Reviews** • The Executive Director of the Council will identify a clear Federal coordination lead by designating facilitating agencies to conduct early coordination until a NEPA lead agency is designated • Steering Council agencies are required to develop coordinated project plans and review schedules for "covered projects" (projects meeting certain thresholds of size and complexity) • OMB is developing guidance for elevating and resolving interagency disputes as required by the statute • The Council will develop recommendations for "best practices," such as improving coordination & transparency **Standardize Use of the Infrastructure Permitting Dashboard and Internal Collaboration Tools** • Dashboard posting requirements are specified in FAST-41 and will be clarified in OMB guidance • Improve and develop IT tools, including both tools for applicants (per the Council's "best practices" recommendations) and tools for agencies (subject to available funds)	**Project Review Timeframes:** • Requirement for agencies to report completion dates for milestones • Procedures for collecting "Time Under Active Federal Review," to account for "pauses" due to external factors • Status of agency compliance with timelines will be publicly posted
Strategy 2: Improve Project Planning, Siting, and Application Quality	**Expand Availability of Scientific, Environmental and Other Relevant Data and GIS Tools** • Data standardization is included in the list of best practices the Council must promulgate **Develop User-Friendly IT Tools for Project Applicants and Federal Agencies** • This remains a long-term goal, including a Nationwide Inventory of Historic Properties, subject to available funds **Provide "Best Practices" Guidance to Project Applicants** • The Council may choose to address this goal, once fully constituted	
Strategy 3: Improve Permitting, Reviews, and Mitigation	**Facilitate High-Quality and Efficient Permitting and Review Processes for Proposed Major Infrastructure Projects** • Agencies' CERPOS will be responsible for promoting project-specific improvements **Develop Policies and Guidance for Stakeholder Engagement** • This is another "best practice" the Council is required to address **Regularly Review Agency Implementation Capacity** • The Council's Executive Director is required to issue an annual report to Congress evaluating agency implementation of the best practices recommended by the Council **Expand Use of Innovative Mitigation and Programmatic Approaches** • Previous work has addressed mitigation, such as the 2015 Presidential Memorandum on mitigation and work by both CEQ and DOI. Both elements remain long-term goals	**Project Review Impacts:** • Will introduce methodology in January 2017 to measure environmental, cultural, and community impacts of the federal permitting and review process
Strategy 4: Drive Continued Improvement	**Establish the Federal Permitting Improvement Council and interagency coordination governance structure** **Develop and Track Metrics for Permitting Review Timelines and Outcomes for Communities and the Environment** • Per FAST-41 (performance metrics) and OMB-CEQ memorandum M-15-20 (environmental metrics; this will be replaced by future guidance); see also, "Key Indicators"	

Strategy 1: Institutionalize Interagency Coordination and Transparency

Develop Policies and Tools for Coordinated Federal Project Reviews

Key Implementation Milestones	Due Date	Status	Owner
Designate "facilitating" agencies for each sector and/or "type" of covered project	5/2016	Complete	ED, with input from Council
Issue guidance on coordinating project reviews, resolving disputes, and other aspects of FAST-41 implementation	1/2017	On Track^	OMB, with input from CAP Goal leaders
Begin applying new coordination procedures per FAST-41 requirements	9/2016	Complete^	Council agencies
Develop detailed plan for issuing user fee regulations	3/2017	On Track^	OMB, with input from Council agencies
• Collect detailed data on agency review costs	4/2016	Complete	
• Determine which agencies will collect fees, and how new fees will interact with pre-existing fee authorities	2/2017	On Track^	
Issue "best practices" recommendations for improving coordination between Federal and non-Federal governmental entities	12/2016*	On Track	Council
Complete rulemaking process, issue user fee regulations and begin collecting fees	12/2017	Not Started^	Relevant Council agencies

Standardize Use of the Infrastructure Permitting Dashboard and Internal Collaboration Tools

Key Implementation Milestones	Due Date	Status	Owner
Issue guidance on Dashboard posting requirements	5/2016	Missed	OMB, with input from CAP Goal leaders
Update Dashboard to meet new capability requirements	5/2016	Complete+	DOT, with input from OMB/ED
Publish "covered project" inventory on Dashboard	9/2016*	Complete^	ED/Council agencies
Begin posting project information to Dashboard (including project review timeline and relevant project information) according to FAST-41 requirements	11/2016*	Complete^	Relevant Council agencies
Issue "best practices" recommendations for increasing transparency	12/2016*	On Track	Council

^ See footnote on page 10. Although significant progress has been made, milestone required Executive Director consultation, approval, or action before finalizing. Now that ED has been appointed, CAP Goal team has revised milestone completion dates.
+ Initial updates to the Dashboard were completed in May 2016. Updates continue to be made on a phased basis to meet additional statutory.
* Statutory requirement.

Strategy 2: Improve Project Planning, Siting, & Application Quality

Expand Availability of Scientific, Environmental and Other Relevant Data and GIS Tools			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Inventory different data standards used by agency GIS tools, e-application systems, or other electronic systems related to infrastructure permitting and identify specific opportunities to facilitate information exchange by creating consistent data standards	6/2017	On track	OMB/ED, with input from Council agencies
Identify any other barriers to the easy sharing of relevant scientific, environmental, cultural, demographic or other relevant data among agencies and with project applicants	6/2017	On track	OMB/ED, with input from Council agencies
Coordinate with other Federal IT and data policy bodies (e.g., e-Gov/OFCIO, Data.gov, OSTP, etc.) to identify an appropriate policy vehicle and recommend policies to increase data sharing and data standardization as related to Federal authorizations and reviews	12/2017	On track	OMB/ED
Develop User-Friendly IT Tools for Project Applicants and Federal Agencies			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Inventory, and increase user awareness and accessibility of, existing IT tools for project applicants and Federal agencies	6/2016	Complete	OMB/ED, with input from Council agencies
Issue "best practices" recommendations for agencies to develop and make available to project applicants appropriate geographic information systems (GIS) and other tools	12/2016*	On Track*	Council
Develop additional tools for project applicants and Federal agencies, such as a Nationwide Inventory of Historic Properties; a national map cross-referencing Federal permitting and review agencies' contact information by geographic location; and tools to improve the public comment process (subject to availability of funds)	12/2017	Not started	ED, with input from Council agencies
Improve, and/or transfer management of, National Broadband Map (communications facility siting tool)	12/2017	Not started	ED, with input from Council agencies
Provide "Best Practices" Guidance to Project Applicants			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Inventory and make available in a centralized location existing agency instructions, tools and policies for communicating with project applicants	6/2017	Not started	ED, with input from Council agencies
Issue "best practices" recommendations for project applicants to follow	12/2017	Not started	ED/Council

Statutory requirement to complete by the indicated date.

Strategy 3: Improve Permitting, Reviews, and Mitigation

Facilitate High-Quality and Efficient Permitting and Review Processes for Proposed Major Infrastructure Projects			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Issue data call to Steering Council agencies to inform development of model performance schedules, user fee regulations, and other aspects of implementation	4/2016	Complete	OMB
Issue "best practices" for ensuring timely decisions regarding environmental reviews and authorizations; reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other parties; and creating and distributing training materials useful to Federal, State, tribal, and local permitting officials	12/2016*	On Track	Council
Submit Report to Congress assessing agency compliance with the permitting timelines established in Coordinated Project Plans	4/2017*	Not started	ED
Issue "best practices" and model reforms for state-delegated permitting programs	12/2017*	Not started	Relevant Council agencies

Develop Policies and Guidance for Stakeholder Engagement			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Issue "best practices" recommendations for enhancing early stakeholder engagement	12/2016*	On Track	Council
Complete annual engagement with stakeholders	12/2016*	On Track	Council

Regularly Review Agency Implementation Capacity			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Submit Report to Congress assessing agency progress in making improvements consistent with "best practices" recommendations from Council	4/2017*	Not started	ED

Expand Use of Innovative Mitigation and Programmatic Approaches			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Release mitigation barriers report	TBD**	On track	Council
Develop policy for using and updating existing programmatic inventory	TBD**	On track	ED/Council
Identify opportunities to develop additional programmatic approaches	TBD**	Not started	Council agencies

*Statutory requirement to complete by the indicated date.
**These pre-existing workstreams will be reincorporated into the action plan timeline once initial actions required for FAST-41 implementation are completed.

Strategy 4: Drive Continued Improvement

Establish the Federal Permitting Improvement Council and Interagency Coordination Governance Structure			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Designate Councilmembers and agency CERPOs	3/2016	Complete	Council agencies
Designate an agency to provide administrative support	3/2016	Complete	OMB
Appoint Executive Director (ED)	7/2016	Complete^	Presidential Personnel Office
Hire Council staff	2/2017	On Track^	OMB/ED
Formalize Council charter (including official structure and agency roles/responsibilities)	2/2017	Not started^	Council
Develop and Track Metrics for Permitting Review Timelines and Outcomes for Communities and the Environment			
Key Implementation Milestones	**Due Date**	**Status**	**Owner**
Publish model project review timelines or "performance schedules"	12/2016	On Track*	ED
• Categorize project types/sub-sectors	6/2016	Complete	Council agencies
• Determine average review timelines for each project type	7/2017^	Not started	OMB/ED
Issue detailed guidance on environmental and community outcome metrics	1/2017	On Track^	CEQ
Begin reporting environmental and community outcomes for completed project reviews	1/2017	On Track^	Council agencies

^ An Executive Director (ED) nomination package was submitted to the White House Presidential Personnel Office in May 2016. His official appointment occurred in July. The timing of this appointment, consequently, affected completion dates for many milestones on the previous slides that require ED consultation, approval, or action. The CAP Goal team has updated milestone dates in this Q4 update, now that the ED has been appointed and consulted.
*Statutory requirement to complete by the indicated date.

Key Indicators

In order to track the progress of the reform efforts included in this plan towards the Administration's goal, and to provide greater transparency into the permitting process for federal managers, project applicants, and other stakeholders, indicators must be established to track project review timeframes and better capture and describe the environmental, cultural, and community outcomes of the federal permitting and review process. Consistent, government-wide data will provide greater insight into current practices and inform discussions on ways to improve the review process. This data will also aid in identifying process trends and common external drivers that influence the review process.

In order to ensure that the permitting process operates effectively and efficiently and that our reform efforts are having the intended impact, two categories of indicators will be collected: project review timeframe data, and the impact on environmental, cultural, and community outcomes of avoidance, minimization or other mitigation undertaken through the Federal review process. The Dashboard was updated in July 2016 to collect consistent information on project review timeframes across the set of projects covered by FAST-41 requirements (namely, infrastructure projects requiring complex Federal review processes). Collecting information related to the environmental, cultural, and community outcomes of the Federal review process is challenging, and therefore the outcomes metrics established in OMB-CEQ guidance memorandum M-15-20 will be superseded by additional OMB/CEQ guidance in January 2017 to ensure that the measurements are both appropriate and informative, and collected with a reasonable administrative burden.

Key indicators

High Level Indicator	Potential Target Areas
• Project Review Timeframes: Completion dates for key milestones *Collection of indicator has already begun; additional milestones and tracking capabilities will be available after 11/21/16**	Agencies with planning, permitting and review responsibilities for major infrastructure projects will collect completion dates for each associated permitting and review action as applicable. These milestone actions include events such as: Permitting and Review Milestones: • Initial Application Received • Issuance of Decision for Permit/Approval NEPA Milestones: • Issuance of a Notice of Intent to prepare an Environmental Impact Statement (EIS)** • Scoping • Official Notice of Availability of a Draft EIS published in the Federal Register • Official Notice of Availability of a Final EIS published in the Federal Register • Record of Decision or combined Final EIS/Record of Decision
• Project Review Timeframes: Pauses due to External Factors *Tracking not available on the Dashboard**	In some cases, the federal permitting process may experience a "pause" in the review, such as when an application is withdrawn by the project applicant, a state or local government is in sole review of the application, or when financing is withdrawn. When this occurs, the elapsed time between milestone dates may provide a misleading picture of the timeliness of the federal review. For this reason, the timeliness indicator will take into account pauses in the federal review due to external factors. The agencies will record the start and end dates of any non-trivial "pause" in the central database, associated with the project name and project ID.

*Project review timelines will be posted on the Dashboard at the appropriate time, consistent with FAST-41 requirements.
**Project review timelines may also be tracked for some non-EIS projects with complex Environmental Assessments (EAs), which will follow the appropriate NEPA milestones for EAs rather than the EIS milestones noted in the above example. Similar to any project which requires an EIS, EA project timelines will be posted at the appropriate time, consistent with FAST-41 requirements, once the Executive Director is appointed and officially establishes the "inventory" of covered projects.

Key indicators

High Level Indicator	Potential Target Areas
• The environmental, cultural, and community impacts of the Federal review process *The requirement to begin collection of this indicator will begin in early 2017 for completed "covered projects"**	In addition to requiring the collection and reporting of permitting timeframe data, project teams will report summary data on whether the Federal permit and review processes improved the environmental and community outcomes. The approach will identify the outcomes improved through avoidance, minimization, or other mitigation of adverse impacts that result from the anticipation or application of Federal permitting and review processes. Such data will help verify whether permits and environmental reviews do generate, on net, materially improved outcomes and reduced impacts for environmental and community resources. While much of this data and analysis is collected through existing environmental permitting and review processes, to date, it has not been reported in a consistent, easily comparable or searchable manner. The information collection effort outlined below is a first step to addresses this concern. Specifically, Federal project team members will report whether the permitting and review process produced an improved outcome (i.e., a reduction in impacts) for the following seven resource categories: Air, Water, Land, Biological, Cultural, Community, and Other. If there is a reduction in impacts, the project team members will report whether the reduction resulted from Avoidance, Minimization, or Compensatory Mitigation. If the team reports the use of compensatory mitigation, it will state whether the activity involved a mitigation bank, in-lieu fee, or permittee-responsible actions. Before reporting begins, OMB and CEQ will finalize the specific metrics used to report environmental and community outcomes data in guidance.

The requirement to begin collecting indicators that track the environmental, cultural, and community impacts of the Federal review process will be formalized in the OMB-CEQ guidance mentioned on slide 7.

Contributing Agencies and Programs

Advisory Council on Historic Preservation
- Office of Federal Agency Programs

Executive Office of the President
- Council on Environmental Quality
- Office of Management and Budget
  - Office of Performance and Personnel Management

Federal Energy Regulatory Commission

Nuclear Regulatory Commission

United States Department of Agriculture
- United States Forest Service
- Rural Utility Service

United States Department of the Army
- Office of the Assistant Secretary of the Army for Civil Works

United States Department of Commerce
- National Oceanic and Atmospheric Administration
  - Office of Coastal Management
  - National Marine Fisheries Service

United States Department of Defense
- Office of the Deputy Under Secretary of Defense/Installations & Environment

United States Department of Energy
- Office of the Secretary

United States Department of Homeland Security
- United States Coast Guard – Bridge Program
- Federal Emergency Management Agency

United States Department of Housing and Urban Development
- Office of Environment and Energy
- Community Planning and Development/Community Development Fund

United States Department of Interior
- Bureau of Indian Affairs
  - Environmental Quality Program
  - Real Estate Services
  - Land Title Records Services
- Bureau of Land Management
  - Renewable Energy Management
  - Cadastral Survey
  - Lands and Realty Management
  - Communication Sites Management
- Bureau of Ocean Energy Management
  - Renewable Energy
  - Conventional Energy
  - Environmental Assessments and Studies
  - General Support Services
- Bureau of Reclamation
- National Park Service
- United States Fish and Wildlife Service
  - Ecological Services

United States Department of Transportation
- Office of the Secretary
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- Federal Transit Administration
- Maritime Administration
- John A. Volpe National Transportation Systems Center

United States Environmental Protection Agency
- Office of Enforcement and Compliance Assurance
  - NEPA Compliance Division

Morris K. Udall and Stewart L. Udall Foundation
- United States Institute for Environmental Conflict Resolution

Acronyms

- **ACHP – Advisory Council on Historic Preservation**
- **BLM – Bureau of Land Management**
- **CE – Categorical Exclusion**
- **CERPO – Chief Environmental Permitting and Review Officer**
- **CEQ – Council on Environmental Quality**
- **DOE – Department of Energy**
- **DOI – Department of Interior**
- **DOT – Department of Transportation**
- **EA – Environmental Assessment**
- **ED – Executive Director of Council (FPIC)**
- **EIS – Environmental Impact Statement**
- **EO – Executive Order**
- **EPA – Environmental Protection Agency**
- **FERC – Federal Energy Regulatory Commission**
- **FPIC – Federal Permitting Improvement Council**
- **FHWA – Federal Highway Administration**

- **GIS – Geographic Information Systems**
- **NPS – National Park Service**
- **NEPA – National Environmental Policy Act**
- **NMFS – National Marine Fisheries Service**
- **NOAA – National Oceanic and Atmospheric Administration**
- **NRC – Nuclear Regulatory Commission**
- **NTIA – National Telecommunications and Information Administration**
- **OMB – Office of Management and Budget**
- **RUS – Rural Utility Service**
- **SHPOs – State Historic Preservation Offices**
- **TBD – To Be Determined**
- **USACE – United States Army Corps of Engineers**
- **USDA – United States Department of Agriculture**
- **USFS – United States Forest Service**
- **USFWS – United States Fish and Wildlife Service**