

FAST-41: Your Tailored Roadmap for Infrastructure Project Permitting

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PERMITTING COUNCIL

Transparency • Efficiency • Accountability

How Does the Permitting Council Deliver Benefits?

One Stop Shop

Project sponsors have a single point of contact with the Executive Director throughout the entire Federal permitting process and can contact the lead agency or the Executive Director with issues about the permitting process or schedule.

Executive Level Oversight

Permitting Council Members (Deputy Secretary level) - 12 Federal agencies plus the Council on Environmental Quality and the Office of Management and Budget - led by an Executive Director appointed by the President

Decision Makers

CERPOs – covered projects have a designated Chief Environmental Review and Permitting Officer(s) at each agency, appointed by head of agency and reporting to the Deputy Secretary

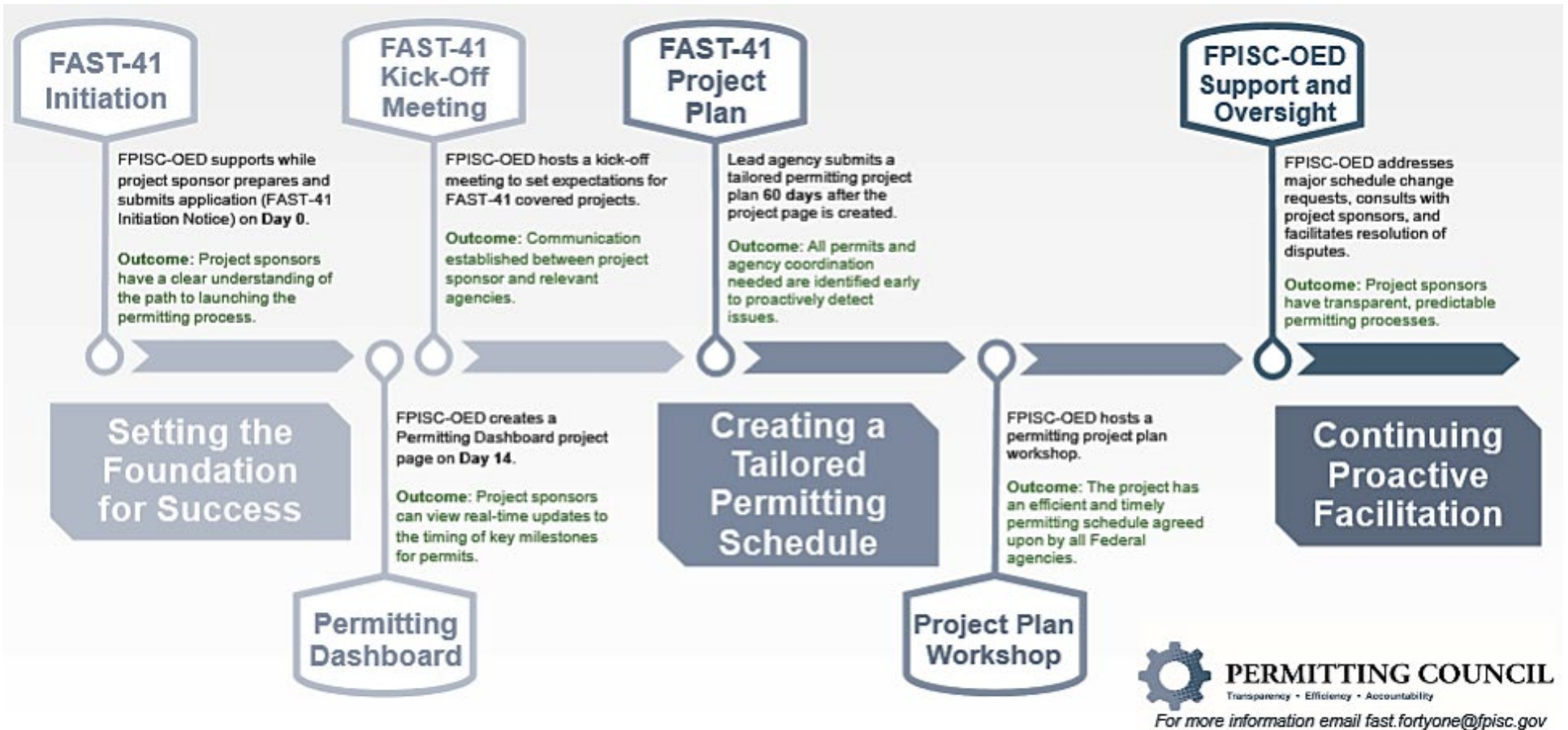
The CERPO is charged with facilitating efficient and timely permitting processes for FAST-41 covered projects and recommending process improvements

Dispute Resolution

The Executive Director mediates timetable disputes and elevates them to the Director of the Office of Management and Budget (OMB) if unresolved after 30 days.



What Does FAST-41 Look Like?



Permitting Council Best Practices

FPISC-OED Best Practice (BP) Categories

- 1) Enhancing Early Stakeholder Engagement (CPP)
- 2) Ensuring Timely Decisions
- 3) Improving Coordination between Federal and Non-Federal Entities
- 4) Increased Transparency
- 5) Reducing Administrative Burdens
- 6) Use of GIS and Other Tools
- 7) Training
- 8) Other Best Practices

Implementing Best Practices

- Permitting Council is required to issue Best Practices recommendations annually.
- Permitting Council agencies are encouraged to work together to implement the best practices in their effort to meet the objectives for federal permitting process improvement.
- E.O. 13807 utilizes the Best Practices established under FAST-41 track and score agencies on the incorporation and implementation of appropriate best practices for all infrastructure projects



BP2&3 – Ensuring Timely Decision & Improving Coordination

Ways to BPs through CA AB-1227

FAST-41 and CA Bill include provisions for establishing and regularly updating *comprehensive project plan*:

- CPP and Risk Management Plan well-suited to establishing agreed upon concurrent reviews early in the process.
- CPPs are updated and concurred upon at least quarterly, while CA administering agency must provide quarterly reports to the project oversight committee, both ensuring that the evolving environmental process is documented and coordinated.
- CPP and Risk Management Plan ensure efficient use of staff resources to meet or beat milestone target dates

CPP and Risk Management Plans capture areas of risk and uncertainty through various project activities:

- Plans accurately represent causes of schedule variability for the projects by using this information in the development of tools and technical assistance to minimize sources of uncertainty and risk in permitting processes
- Establishes a comprehensive risk management plan to identify risks, implement and track risk response, and monitor risks throughout the duration of the project.



BP4&5 Increased Transparency & Reducing Administrative Burden

Ways to Implement BPs through CA AB-1227

Create a Permitting Dashboard:

- Timetables for environmental reviews and authorizations can be publicly displayed
- This will increase transparency, accountability and predictability
 - State-wide visibility of project timetables and progress
 - Facilitates stakeholder engagement

Create a Statewide Transportation/Infrastructure Council:

- Executive level oversight for all agencies for “megaprojects”
 - Bill as stands currently only includes individual project oversight by the administering agency
- Council coordinates with all involved state agencies to align environmental review and authorization processes across agencies from the outset of planning in order to increase proactive identification of issues
- Early phases would benefit by robust project oversight and formal risk analysis
 - Bill as stands identifies oversight committee and risk management plan created after 30% design



Key FAST-41 Provisions (State):

States have the ability to “opt in” to the FAST-41 process (42 U.S.C. § 4370m-2(c)(3)(C))

- As a FAST-41 “cooperating agency,” a state agency would have a heightened role in the Federal permitting process.
- State “cooperating agencies” under FAST-41 would have a seat at the table to ensure that their specialized, expert knowledge about local community and resources is accurately represented at the early design phase of a proposed FAST-41 project
- Example MOU for a State that opted into FAST-41 can be found on the Permitting Dashboard for the Mid-Barataria Sediment Diversion project (MOU between the State of Louisiana and FAST 41 Cooperating Agencies, executed on 25 January 2018).



Key FAST-41 Provisions (Legal):

- **Limitation on Claims: FAST-41 reduces the statute of limitations from 6 to 2 years**
- **Federal agencies will review NEPA challenges only when filed by a party who submitted a related comment during the project's environmental review**
- **Established standards for judicial review of actions seeking a temporary restraining order or preliminary injunction against an agency of project sponsor in connection with review or authorization of a FAST-41 covered project**
 - The court shall consider the potential effects on public health, safety, and the environment, and the potential for significant negative effects on jobs resulting from an order or injunction and
 - Not presume that the above harms are reparable



FAST-41 Delivers Results

Permitting Council's Quantified Benefits to Covered Projects:

Combined Savings to Project Sponsors: Over \$1 billion to date

Moving the Process Along: OED coordinated closely with the Council to facilitate a Section 106 review, saving an estimated six months and millions in capital costs to the project.

Enhancing Coordination: By facilitating state-federal coordination, OED was able to reduce a permitting timetable by 22 months.

Correcting Inefficiencies: OED collaborated with an agency to implement a more efficient internal review process for a FAST-41 project that resulted in a six to eight week shorter environmental review period.

Avoiding Communication Failures: OED has successfully intervened when communication within and among agencies has broken down to facilitate and resolve misunderstandings, disagreements, and disputes.



How Does a Project Become a FAST-41 Project?

FAST-41 Eligibility Criteria

- Any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure in designated sectors,
- Subject to the National Environmental Policy Act (NEPA),
- Likely to require a total investment of more than \$200 million, and
- Does not qualify for an abbreviated authorization or environmental review process.

Note: A project that does not meet the \$200 million threshold may still be a covered project if the Permitting Council determines it is of a size and complexity that would benefit from FAST-41

FAST-41 Sectors

- Water Resources*
- Renewable Energy Production
- Conventional Energy Production
- Electricity Transmission
- Aviation
- Ports and Waterways*
- Broadband
- Surface Transportation*
- Manufacturing
- Pipelines

**Exemption: Does not include projects subject to Section 139 of Title 23 or Section 2045 of WRDA (2007)*

No fee is currently required to become a FAST-41 project.



