OPM CoP Training for FAST-41

last updated 26 June 17

US Army Corps of Engineers
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Why are we here?

- Heightened attention on infrastructure projects

- Desire for streamlined processes and improved coordination among Federal agencies

- There may be an increased need for information, timelines, status, and upward reporting on high visibility projects

- Fast-41/Dashboard/Infrastructure

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Possible USACE Involvement

- **Regulatory Program**
  - ▶ Section 10/404/103
- **Section 408**
  - ▶ Activities that cross real-estate interests of a USACE Civil Works project
- **Real Estate**
  - ▶ Outgrants and consent-to-easement
  - ▶ Reporting requirement for 24"> pipelines

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Emphasis on Coordination

- Requests come into various offices
- Regulatory/Real Estate/Section 408
  - ► Different processes and scope for evaluations
  - ► Need to leverage common information/data
- Direct link between Section 408 and Real Estate & Operations/E&C
  - ► Determine if processes are sufficient
- No conflict in decisions

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Title 41 of Fixing America's Surface Transportation Act (FAST-41)

► Signed into Law December 4, 2015 (expires December 4, 2022)

► Establishes new procedures that standardize interagency consultation and coordination practices for <u>covered infrastructure projects</u>.

  • "Infrastructure" defined as: renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, <u>or any other sector</u> as determined by a majority vote of the Council

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Anticipated Benefits of FAST-41

Enhanced Coordination

Enhanced Visibility and Predictability

Enhanced Accountability

Enhanced Public Participation

Enhanced Legal Protections

***Clearly states that it does not result in approval/federal endorsement of a project

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Covered Projects – 2 Categories

OBJECTIVE CATEGORY

> ▶ Subject to NEPA
>
> ▶ Total investment of more than $200 million
>
> ▶ Does not qualify for any abbreviated reviews/authorizations

DISCRETIONARY CATEGORY

> ▶ Subject to NEPA and Council determines because of size and complexity it would benefit from process, including projects that are likely to require:
>
> > • Involvement of more than 2 federal agencies OR preparation of an EIS.

■ Exempt: any project subject to section 139 of title 23,United States Code; or any project subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348), e.g. FHWA, FTA, FRA, and Corps CW Projects

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Covered Projects (cont'd)

- <u>Existing:</u> Those under lead agency review by 6 March 2016 must be posted to Dashboard.
    - ► Mandatory listing
    - ► No fees imposed

- <u>New:</u> Those received after 6 March and where applicant has submitted a formal request to the Council and/or Lead Agency to be added to the Dashboard.
    - ► Fees can be imposed – No fees are currently being collected. Rulemaking required.

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The FPISC (pronounced FIP-SEE), or Council

► Federal Permitting Improvement Steering Council.

- Executive Director (Presidential Appointee)
- Secretaries/equivalents from:
  ▷ Agriculture, Army, Commerce, Energy, Interior, Transportation, Defense, EPA, FERC, NRC, Homeland Security, HUD, ACHP, OMB, CEQ, and others, as invited.

- For the Corps: ASA(CW) Doug Lamont (Acting)

► Develop policies/guidance.

► Add new categories of covered projects

► Add projects that meet the "discretionary" standard.

► Engage when timeline issues arise.

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Chief Environmental Review and Permitting Officer (CERPO)

- Each agency has at least one
- Chief of Operations and Regulatory – Andrea Murdock-McDaniel, Acting
- **POC** - Deputy Chief of Operations and Regulatory – Meg Gaffney-Smith

Working Group

- Amy Klein (for Regulatory), April Falcon-Villa (408).

Facilitating Agencies

- Initial POC for each sector type

- Evaluates applicant's request to determine if a "covered project".

- Assumes roles of lead agency <u>until</u> lead agency identified

- Corps not a facilitating agency.

Lead Agencies

► Evaluate project sponsor's request to be a covered project

► Establish a **Coordinated Project Plan (CPP)** with timelines.

  • Update plan quarterly

► Post plans and timetables to the **Dashboard**

► Request permission from Executive Director to modify plan and/or timetable

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Cooperating/Participating Agencies

- ALL federal agencies with an associated decision MUST be cooperating/participating agencies (similar to NEPA).

- Report timeline for decision-making – be conservative
  - ► "Dependent" timelines allowed but must specify.

- Contribute to CPP and updates

- Engage in normal "cooperating agency" activities
  - ► Meetings, NEPA document reviews, etc.

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Coordinated Project Plan and Timetables

- 45 days after project listed on Dashboard, lead agency must identify all federal and non-federal agencies likely to have financing, enviro review, authorization, or other responsibilities.

- 60 days after project is listed on the Dashboard, CPP must be posted by lead agency to the Dashboard (internal) and timetables posted by lead agency to the Dashboard (external)
  - ▶ Content of CPP:
    - Roles and Responsibilities
    - Permitting Timetable for environmental reviews/authorizations (not financial)
    - Discussion of avoidance, minimization, and mitigation strategies, if knowns
    - Plans and schedule for public outreach and coordination, to extent required by law.

Permitting Timetables

- Must be developed <u>in consultation with</u> each FAST-41 cooperating agency, participating agency, project sponsor, and state where project is located

- <u>Concurrence required</u> from each cooperating agency

- If agreement with cooperating agencies cannot be reached, there are dispute resolution procedures with the Executive Director (ED), CERPO, and project sponsor.

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Permitting Timetables

- Can be modified
    - ► Shortened without permission
    - ► Extending requires permission from ED unless reason is outside agency's control, e.g. still waiting for information from applicant – lead should "pause".
    - ► Cannot be extended for a period of time greater than half the amount of time from when it is first established to the last final completion date in the original timetable.
    - ► Cannot be modified within 30 days of completion date
    - ► Failure to comply requires agency to notify ED and provide reasons for failure.
        - Must also provide monthly updates to the ED.
        - ED will include any agency's failures in annual report to Congress

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The Dashboard

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As of 02 Mar 17

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North Anna Power Station, Unit 3	Conventional Energy Production
Liberty Development and Production Plan	Conventional Energy Production
Turkey Point, Units 6 and 7	Conventional Energy Production
William States Lee III Nuclear Station, Units 1 and 2	Conventional Energy Production
Levy Nuclear Plant Units 1 and 2	Conventional Energy Production
Energy Gateway South Transmission Project	Electricity Transmission
Gateway West Segments 8 & 9	Electricity Transmission
Kake to Petersburg Transmission Project	Electricity Transmission
Plains and Eastern Clean Line	Electricity Transmission
Ten West Link	Electricity Transmission
Atlantic Coast Pipeline	Pipelines
Atlantic Sunrise	Pipelines
Denbury Riley Ridge to Natrona Project CO2	Pipelines
Gulf LNG Liquefaction Project	Pipelines
Mountain Valley and Equitrans Expansion Project	Pipelines
Nexus Gas Transmission, TEAL, DTE Lease, and Vector Lease	Pipelines
North-South Project	Pipelines
PennEast Pipeline	Pipelines
Tennessee Gas Abandonment and Capacity Restoration	Pipelines
Venture Global Calcasieu Pass Terminal and TransCameron Pipeline Project	Pipelines
WB Xpress	Pipelines
Desert Quartzite Solar	Renewable Energy Production
Gordon Butte Pumped Storage	Renewable Energy Production
R.C. Byrd	Renewable Energy Production
Red River L&D No. 4	Renewable Energy Production
Swan Lake North Pumped Storage	Renewable Energy Production
East Side Coastal Resiliency	Water Resources
Hudson River Project : Resist, Delay, Store, Discharge	Water Resources
Mid-Barataria Sediment Diversion	Water Resources

Other Information that must be Posted to Dashboard

- Hyperlink that directs to a website that contains the:
  - ▶ FAST-41 Initiation Notice
  - ▶ Application and supporting documents submitted by project sponsor or notice to public on how they can obtain such documents
  - ▶ Description of any federal agency actions taken or decision made that affects the status of the covered project and Any significant documents that supports the action or decision
  - ▶ Description of the status of any litigation to which the agency is a party
  - ▶ Any document above that is not available via hyperlink
  - ▶ All must be posted within 5 days of agency receiving it.
  - ▶ Carve-out provision is "to the extent consistent with applicable law."

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Guidance – 13 Jan 2017

Section 1: General Information

Section 2: Roles and Responsibilities

Section 3: Covered Projects

Section 4: Project-Specific Guidance

Section 5: Posting to the Dashboard

Section 6: Statute of Limitation

Section 7: Environmental and Community Outcomes

Appendix A: Summary of FAST-41 Provisions

Appendix B: Permitting Milestones and Timetables

Appendix C: Template Letter to Project Sponsors

Appendix D: Contact Information

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References

Public-facing site. Note first tab is for FAST-41 projects

https://www.permits.performance.gov/projects OR

https://cms.permits.performance.gov/ (if you haven't logged into Max).

Following link takes you to the site the internal interagency database but permissions are currently restricted:

https://cms.permits.performance.gov/user

- Must first register CAC at Max. gov: https://login.max.gov. Meg will then provide your information to the FPSIC to grant "Dashboard Administrator" Privileges.

- Current CPPs available at: https://community.max.gov/pages/viewpage.action?spaceKey=CrossAgencyExternal&title=Coordinated+Project+Plans

- Permitting Dashboard Data Entry Users Guide: https://cms.permits.performance.gov/documentation

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