Modernizing the Infrastructure Permitting Process

Goal Leaders

Mary Neumayr, Chairman, Council on Environmental Quality (CEQ)

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Goal Statement

- Reduce the time for the Federal Government's processing of environmental reviews and authorization decisions for new major infrastructure projects to an average of two years.
- Provide consistent, coordinated, and predictable Federal environmental reviews and authorization processes for infrastructure projects.

Challenge

- The American people rely on infrastructure improvements to benefit our economy, society, and environment. However, inefficient decision processes, including for environmental reviews and permit decisions or authorizations, have delayed infrastructure investments and increased project costs.

Opportunity

- Improving the Federal environmental review and authorization process will enable infrastructure project sponsors to start construction sooner, create jobs earlier, and fix our Nation's infrastructure faster while also ensuring that a project's potential impacts on environmental and community resources are considered and managed throughout the planning process.
- Infrastructure investment strengthens our economic platform, makes America more competitive, creates jobs, increases wages for American workers, and reduces the costs of goods and services for American families and consumers.

Core Team:

- **Office of Management & Budget (OMB):** OMB's Office of Performance and Personnel Management oversees the day-to-day management of the Infrastructure Permitting CAP Goal and provides direction on goal-related policy development. OMB also oversees the accountability system, including how agencies incorporate related performance goals in agency and personnel plans.

- **Council on Environmental Quality (CEQ):** CEQ's National Environmental Policy Act (NEPA) team provides policy direction on NEPA regulations and environmental policies and may mediate disputes relating to implementation of substantive environmental statutes/regulations. CEQ has developed the One Federal Decision framework with OMB.

- **Federal Permitting Improvement Steering Council (Permitting Council or FPISC):** The Permitting Council's Office of the Executive Director (OED) is charged with coordinating "covered projects" across agencies to improve the Federal environmental review and authorization process, including developing and tracking agencies' adoption of recommended "best practices" for a range of permitting activities, such as early stakeholder engagement, timely decision-making, and interagency coordination.

Agency Partners:

- Advisory Council on Historic Preservation
- Department of the Army
- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Energy
- Department of Homeland Security

- Department of Housing and Urban Development
- Department of the Interior
- Department of Transportation
- Environmental Protection Agency
- Federal Energy Regulatory Commission
- Morris K. Udall and Stewart L. Udall Foundation
- Nuclear Regulatory Commission

Modernizing the Infrastructure Permitting Process
Goal Leaders: OMB, CEQ, FPISC

STRATEGY 1: STANDARDIZE INTERAGENCY COORDINATION

Ensure Federal agencies follow transparent and coordinated processes to improve efficiency, eliminate duplication, and make better-informed decisions.

KEY PERFORMANCE INDICATOR: One Federal Decision Implementation

STRATEGY 2: IMPROVE PREDICTABILITY AND TRANSPARENCY

Increase public reporting of environmental reviews and authorizations timelines to improve predictability and transparency in the permitting process.

KEY PERFORMANCE INDICATOR: Permitting Timetable Completeness

STRATEGY 3: INCREASE AGENCY ACCOUNTABILITY

Collect and report data on key metrics to hold agencies accountable for their performance in processing major infrastructure projects.

KEY PERFORMANCE INDICATOR: Time to Complete Environmental Reviews, Meeting Milestones

STRATEGY 4: IDENTIFY AND IMPLEMENT BEST PRACTICES

Ensure Federal agencies are identifying and implementing best practices to improve the Federal environmental review and authorization process.

KEY PERFORMANCE INDICATOR: Best Practices Implementation

"Institutionalize and Scale" Cross-Agency Priority Goal

- The Modernizing the Infrastructure Permitting Process is now categorized as an "Institutionalize and Scale" Cross-Agency Priority (CAP) Goal which means it has achieved a level of maturity and implementation that enables it to:
  - a) demonstrate and scale the impact; and
  - b) institutionalize these reforms.

- Moving forward, this goal will refocus its activities from planning toward demonstrating results. The action plan has been restructured to shift from reporting detailed milestones and action planning to reporting on implementation outcomes.

- The Permitting CAP Goal strategies to institute a new integrated, cross-agency approach to the environmental review and permitting process for major infrastructure projects to increase transparency, accountability, and efficiency for all stakeholders, has already resulted in over $1 billion in cost savings through avoided permitting delays, as reported by project sponsors and in publicly available information.

One Federal Decision & Major Infrastructure Projects

- Federal agencies are continuing to identify and track major infrastructure projects ("MIPs," as defined by EO 13807) on the Permitting Dashboard.

- In June, OMB published the Accountability Scorecards for Major Infrastructure Projects on agency performance for Quarter 1 and 2 of FY 2020 (October 2019 – March 2020). Highlights include:

  o New Major Infrastructure Projects: Federal agencies initiated the environmental review process for ten additional major infrastructure projects (MIP) since the last update. There are now **43 MIPs being tracked on the Permitting Dashboard** and assessed under the accountability system which include sectors such as surface transportation (highways), aviation, renewable energy (wind and solar), conventional energy (oil and gas), water resources, ports and waterways, and pipelines.

  o New Performance Indicators - Time to Complete and Meeting Milestones: For the first time, the scorecards include information about the length of time it takes to complete the environmental review and authorization decision process for major infrastructure projects and whether major milestones for those projects were completed on time. The **average time to complete the Environmental Impact Statement (EIS) for 5 MIPs was 22.7 months**, measured from the issuance of the Notice of Intent to the issuance of the Record of Decision (ROD). Of those EIS's, three were completed behind schedule due to reasons outside the Federal government's control and two were completed behind schedule due to reasons within the Federal government's control. *See slide 8 and slide 9 for more details.*

  o Permitting Timetable Completeness: **30 of 43 MIPs have complete permitting timetables** (i.e., all relevant project actions and milestone target dates are listed) published on the Permitting Dashboard. 6 project timetables were not updated this quarter while 1 project timetable was incomplete and 2 projects failed to publish a timetable. 4 projects are currently paused and will have timetables updated once the projects are back in progress. *See slide 10 for more details.*

  o One Federal Decision Implementation: Lead agencies reported that **all 43 MIPs are using the** One Federal Decision **framework** to jointly and cooperatively process the environmental reviews and make authorization decisions. Of those projects, lead agencies have granted 8 projects an exception to the requirement to issue a single Record of Decision, but has reported it is planning to implement all other relevant aspects of One Federal Decision. *See slide 11 for more details.*

FAST-41 and the Federal Permitting Improvement Steering Council

New Projects: Currently engaged in pre-FIN coordination on 5 potential FAST-41 projects.

Current Projects: Currently there are 18 active projects on the FAST-41 Dashboard, representing a total economic value of over $79.8B
- ❖   The final Environmental Impact Statement for Borderlands Wind Project was published one week early on April 10, 2020.
- ❖   Two new projects were added to the FAST-41 Inventory, Skipjack Wind ($720,000,000) and Empire Wind ($3,000,000,000)

Stakeholder Engagement: The Council continued extensive outreach efforts to stakeholders.

- ❖   In Q2, FY2020 OED engaged the following stakeholders:
    - o   The Transportation Research Board, Washington, D.C. (January)
    - o   The National Governor's Association, San Francisco, California (January)
    - o   The Commercial Real Estate Development Association (February)
    - o   The Arizona State Legislature (February)
    - o   The National Association of Counties (NACo) Legislative Conference (March)
- ❖   In Q3, FY2020 OED plans to engage with Council agencies through a series of regional trainings

Publications: The Council issued its FY2019 Annual Report to Congress in May 2020. Highlights from the report include:
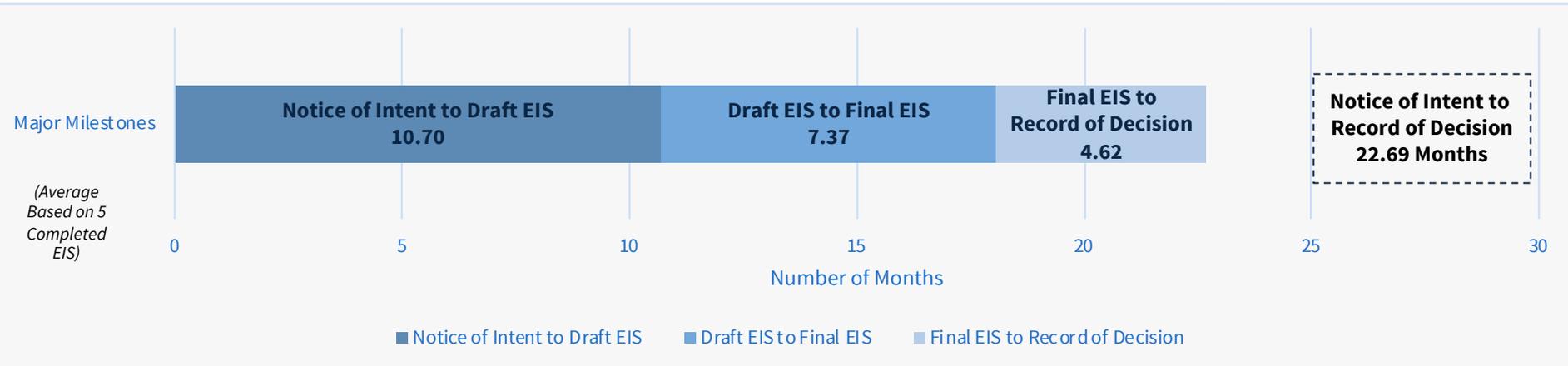- ❖ Meaningful economic impact: projects that completed the Federal permitting process in FY2019 represent $12.7 billion in economic investment. Newly added projects represent $1.4 billion in economic investment.
- ❖ Permits completed ahead of schedule, including the Gulf LNG Liquefaction Project, completed 2.5 months ahead of schedule and the Venture Global Calcasieu Pass Terminal and TransCameron Pipeline Project, completed 1.5 months ahead of schedule.
- ❖ $50 million in cost savings and 14% time reduction over three years from the U.S. Forest Service's process improvements to deliver more efficient environmental analyses and decisions.
- ❖ Industry-leading investment in technology by the Federal Energy Regulatory Commission to speed communication with agencies and stakeholders, including project-specific email notifications, electronic filings, and social media notifications.
- ❖ Since January 2017, Council agencies have engaged successfully in improving the permitting process for the 45 projects currently covered under FAST-41 and led to Federal permitting adjudication for nearly half of all FAST-41 covered projects.

Time to Complete

AVERAGE COMPLETION TIME FOR ENVIRONMENTAL IMPACT STATEMENTS (NOI TO ROD)

Major Milestones

(Average Based on 5 Completed EIS)

| Notice of Intent to Draft EIS 10.70 | Draft EIS to Final EIS 7.37 | Final EIS to Record of Decision 4.62 | | Notice of Intent to Record of Decision 22.69 Months |

Number of Months

- Notice of Intent to Draft EIS
- Draft EIS to Final EIS
- Final EIS to Record of Decision

Action	Responsible Agency	Project	NOI to DEIS	DEIS to FEIS	FEIS to ROD	Total Time to Complete (Months)
Environmental Impact Statement	DOI	Alkali Creek Reservoir	10.80	8.17	5.57	24.53
Environmental Impact Statement	USDA	Crow Creek Pipeline	6.87	8.40	6.07	21.33
Environmental Impact Statement	DOI	Eagle Shadow Mountain Solar	6.17	4.43	1.73	12.33
Environmental Impact Statement	FERC	Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline	18.47^	7.70	4.17	30.34
Environmental Impact Statement	DOI	Leavitt Reservoir	11.20	8.17	5.57	24.93

Performance Indicator

Time to Complete Environmental Reviews
This performance indicator measures the length of time it takes to finish the environmental review and authorization decision process for major infrastructure projects.

Data Reporting Period: September 2019 – March 2020, Updated Quarterly

For More Information: Visit the Permitting Dashboard

^Time measured from FERC application filed to DEIS

Meeting Milestones
MILESTONE TARGET DATES MET

Legend:
- Completed Ahead of Schedule
- Completed On Schedule
- Completed Behind Schedule - Reasons Outside of Federal Government's Control
- Completed Behind Schedule - Reasons Within Federal Government's Control

(Chart values: 2, 3)

Performance Indicator

Meeting Milestones
This performance indicator measures the extent to which agencies are meeting target dates for major milestones in the Permitting Timetable for major infrastructure projects.

Data Reporting Period: September 2019 – March 2020, Updated Quarterly
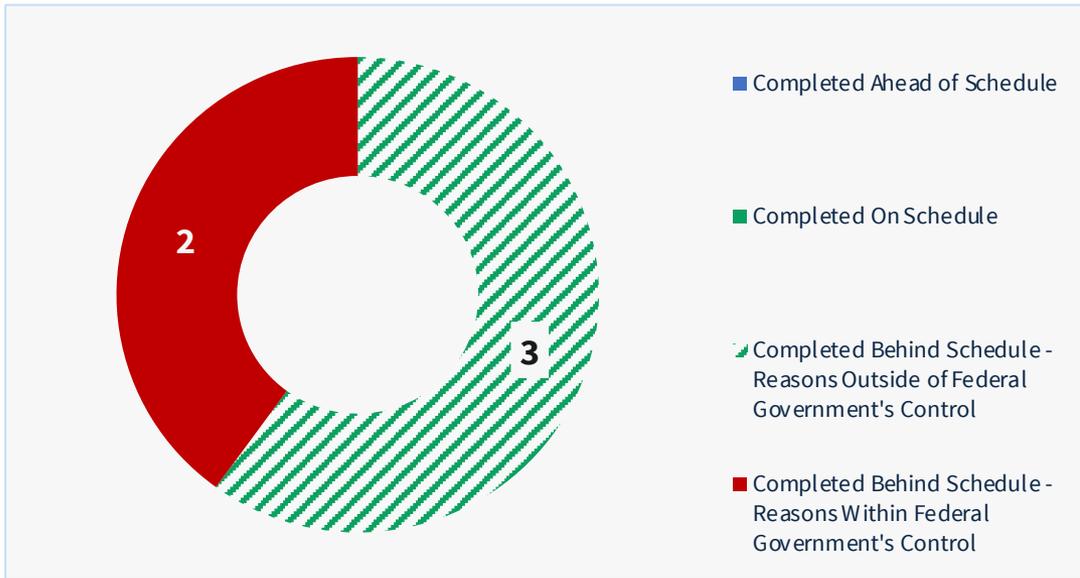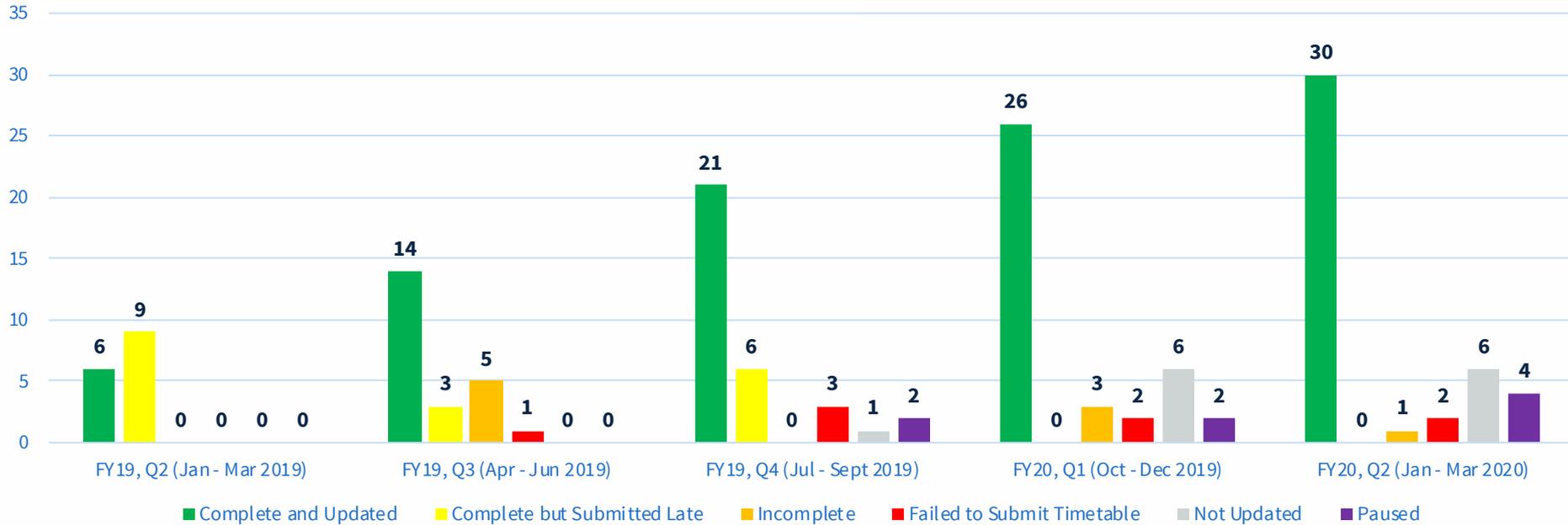
For More Information: Visit the Permitting Dashboard

Action	Responsible Agency	Project	Behind Schedule – Outside the Federal Government's Control (# of months)	Behind Schedule – Within the Federal Government's Control (# of months)	Completion Status
Environmental Impact Statement	DOI	Alkali Creek Reservoir	+0.67		Behind Schedule – Outside the Government's Control
Environmental Impact Statement	USDA	Crow Creek Pipeline	+3.57		Behind Schedule – Outside the Government's Control
Environmental Impact Statement	DOI	Eagle Shadow Mountain Solar	+1.37		Behind Schedule – Outside the Government's Control
Environmental Impact Statement	FERC	Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline		+3.70	Behind Schedule – Within the Government's Control
Environmental Impact Statement	DOI	Leavitt Reservoir		+0.70	Behind Schedule – Within the Government's Control

Permitting Timetables

PROJECTS WITH COMPLETE, UPDATED PERMITTING TIMETABLE

Quarter	Complete and Updated	Complete but Submitted Late	Incomplete	Failed to Submit Timetable	Not Updated	Paused
FY19, Q2 (Jan - Mar 2019)	6	9	0	0	0	
FY19, Q3 (Apr - Jun 2019)	14	3	5	1	0	0
FY19, Q4 (Jul - Sept 2019)	21	6	0	3	1	2
FY20, Q1 (Oct - Dec 2019)	26	0	3	2	6	2
FY20, Q2 (Jan - Mar 2020)	30	0	1	2	6	4

Legend: ■ Complete and Updated ■ Complete but Submitted Late ■ Incomplete ■ Failed to Submit Timetable ■ Not Updated ■ Paused

Performance Indicator

Permitting Timetable Completeness
This performance indicator measures whether major infrastructure projects have a complete permitting timetable published on the Permitting Dashboard.

Data Reporting Period:
September 2019 – March 2020, Updated Quarterly

For More Information:
Visit the Permitting Dashboard

LEGEND

- <u>Complete and Updated:</u> The permitting timetable included all relevant project actions and milestone target dates, and was published on time.
- <u>Complete but Submitted Late:</u> The permitting timetable included all relevant project actions and milestone target dates, but was not published on time.
- <u>Incomplete:</u> The permitting timetable was missing one or more relevant project actions and milestone target dates.
- <u>Failed to Submit Timetable:</u> The permitting timetable was not published on the Permitting Dashboard.
- <u>Not Updated:</u> The permitting timetable was not updated during this quarter, but should have been.
- <u>Paused:</u> The project was in "Paused" status during this quarter. The permitting timetable will be updated once the project is back in progress.

One Federal Decision Implementation

PROJECTS IMPLEMENTING ONE FEDERAL DECISION

Legend (chart): ■ Yes ▨ Yes, Granted Exception (Partial Implementation) ■ No

Period	Yes	Yes, Granted Exception	No
FY 19, Q2 (Jan - Mar 2019)	13	2	
FY 19, Q3 (Apr - Jun 2019)	19	3	1
FY 19, Q4 (Jul - Sept 2019)	26	4	3
FY 20, Q1 (Oct - Dec 2019)	32	7	
FY 20, Q2 (Jan - Mar 2020)	35	8	
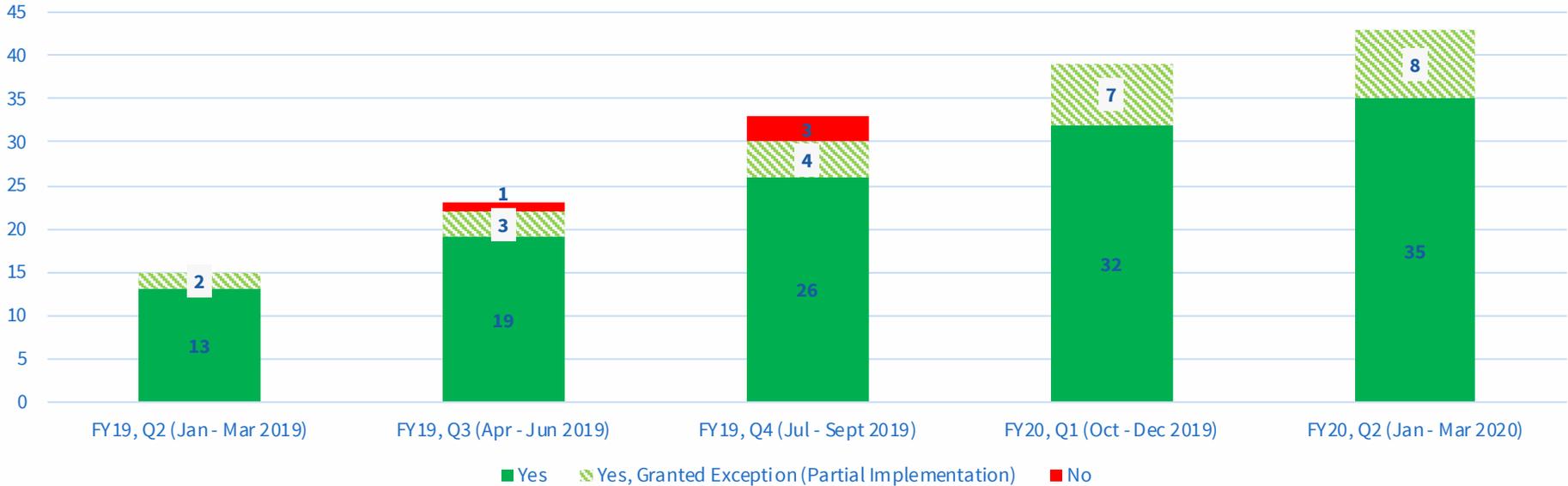
Performance Indicator

One Federal Decision Implementation
This performance indicator measures whether Federal agencies are jointly and cooperatively processing environmental reviews and authorization decisions for major infrastructure projects using the OFD framework.

Data Reporting Period:
September 2019 – March 2020, Updated Quarterly

For More Information:
Visit the Permitting Dashboard

LEGEND

Under One Federal Decision (OFD), agencies are required to jointly and cooperatively process environmental reviews and make authorization decisions for major infrastructure projects, develop a single Environmental Impact Statement (EIS), sign a single Record of Decision (ROD) and issue all necessary authorizations within 90 days thereafter, subject to limited exceptions.

- **Yes:** The major infrastructure project is being processed in accordance with OFD.
- **Yes, Granted Exception (Partial Implementation):** The major infrastructure project was granted an exception to the single EIS and/or single ROD requirement of OFD. For the list of exceptions, please see Section XIII of the One Federal Decision Memorandum of Understanding.
- **No:** The major infrastructure project is not being processed in accordance with OFD.

Best Practices – FPISC Office of the Executive Director Assessment (FY 2019)

Best Practice Category	Early Stakeholder Engagement		Ensuring Timely Decisions	Improving Coordination	Increasing Transparency	Reducing Administrative Burden		GIS & Tool Availability	Training Materials	Other Permitting BPs	
Best Practice	BP i.1 Early outreach to stakeholders (incl. initial list of contacts)	BP i.2 Pre-application process	BP ii.1 ERA process templates, flow charts, and tools	BP iii.1 Standards & Protocols with Tribes	BP iv.1 ERA Schedule and schedule updates	BP v.1 Continuity during Staff Changes	BP v.2 Joint & Programmatic Processes	BP vi.1 ERA Resource Library	BP vii.1 Training on FAST-41 or BPs	BP viii.1 Increase Stakeholders Reached	BP viii.2 Share Lessons Learned
Best Practice Applicability to Agencies	Lead	Lead	Lead, Cooperating, Participating	Lead	Lead	Lead, Cooperating, Participating	All	Lead, Cooperating, Participating	All	Lead	All
ACHP	N/A	N/A	N/A	N/A	N/A	N/A	★	N/A	P	N/A	P-O
Army/USACE	★	P	P	P	★	P	P	P	P	P	P
DHS/USCG	N/A	N/A	★	N/A	N/A	P	P	P	P	N/A	P
DOC/NOAA	N/A	N/A	P	N/A	N/A	★	P	P	P	N/A	P
DOD	N/A	N/A	P	N/A	N/A	P	P	P	P	N/A	P
DOE	N/A	N/A	N/A	N/A	N/A	P	N/A	N/A	N/A	N/A	P
DOI	P	P	P	P	★	P	P	P	P	P	P
DOT	N/A	N/A	N/A	N/A	N/A	N/A	P	N/A	★	N/A	P-O
EPA	N/A	N/A	N/A	N/A	N/A	N/A	P	N/A	N/A	N/A	P-O
FERC	N/A	P	P	★	P	P	P	P	P	★	P
HUD	N/A	N/A	N/A	N/A	N/A	N/A	P	N/A	N/A	N/A	P-O
NRC	N/A	★	P	N/A	N/A	P	P	★	P	N/A	P
USDA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	★

Legend

★	Selected by OED for Agency Spotlight Narrative (see Chapter 2)
P	Pass (based on Agency Submission)
P-O	Pass (based on OED observation)
N/A	BP Not Applicable in FY19 (determined by Council Member)

Performance Indicator: Best Practices Implementation
Data Reporting Period: FY 2019, updated annually
For More Information: See the FAST-41 Annual Report to Congress for FY 2019

Upcoming Major Actions	Milestone Due Date	Owner	Status
Strategy 1: Standardize Interagency Coordination			
Conduct initial analysis of One Federal Decision data to identify potential inefficiencies and areas for improvement	Q2, FY21	CEQ/OMB	On Track
Strategy 2: Improve Predictability and Transparency			
Conduct a pilot program to sync an agency's internal database with the Permitting Dashboard to reduce burden & duplicative data entry	Q3, FY20	CEQ/OMB/ DOT	In Progress
Identify and develop work plans with additional agencies to sync databases with the Permitting Dashboard	Q4, FY20	CEQ/OMB/ DOT	On Track
Issue Recommended Performance Schedules to Council agencies	Q3, FY21	FPISC	On Track
Strategy 3: Increase Agency Accountability			
Publish data on additional performance indicators, including time to complete environmental reviews and the extent to which agencies are meeting major milestones in the permitting timetable	Q3, FY20	OMB	Completed
Assess if agencies are implementing best practices for FAST-41 projects in FY 2020 Annual Report to Congress	Q3, FY21	FPISC	On Track
Strategy 4: Identify and Implement Best Practices			
Issue FY 2021 Best Practices Report	Q3, FY21	FPISC	On Track

Advisory Council on Historic Preservation
- Office of Federal Agency Programs

Executive Office of the President
- Council on Environmental Quality
- National Economic Council
- Office of Management and Budget

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 the Interior
- The Bureau of Land Management
- Bureau of Ocean Energy Management
- Land and Minerals Management
- National Park Service
- Fish and Wildlife Service
- Bureau of Indian Affairs

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

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

Federal Energy Regulatory Commission

Nuclear Regulatory Commission

Federal Permitting Improvement Steering Council

Morris K. Udall and Stewart L. Udall Foundation
- John S. McCain III National Center for Environmental Conflict Resolution