

**DEPARTMENT OF THE ARMY**

**COMPLETE STATEMENT OF**

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(CIVIL WORKS)**

**BEFORE**

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL  
AFFAIRS**

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

**UNITED STATES SENATE**

**ON**

**The Federal Permitting Process for Major Infrastructure Projects,  
Including the Progress Made by the Federal Permitting Improvement  
Steering Council**

**JULY 26, 2017**

Chairman Portman, Ranking Member Carper and distinguished member of the Subcommittee, I am Robyn Colosimo, Assistant for Water Resources Policy, in the Office of the Assistant Secretary of the Army for Civil Works. Thank you for the opportunity to discuss the U.S. Army Corps of Engineers (Corps) water resources infrastructure projects and the Regulatory Program within the context of Title 41 of the "Fixing America's Surface Transportation Act," (P.L. 114-94) (FAST-41).

The underlying objective of the FAST-41 provisions is to improve the Federal permitting process for infrastructure projects by integrating and streamlining Federal agency processes relevant to permits, approvals, determinations, and permissions. The Corps fully supports this objective.

The Corps strives to provide timely and efficient decision making both for the development of its water resources infrastructure projects and for applicants that may seek approval under one of its regulatory authorities with respect to the construction of an infrastructure project. The Corps fosters deliberate and open communication with applicants that request permits from the Regulatory Program under Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act or request permission to modify or alter authorized water resources development projects under Title 33 of the U.S. Code, Section 408. The Corps also engages early and often with its sister Federal agencies to seek their feedback and synchronize their review with its decision making process involving infrastructure project proposals.

For several years, the Corps has been sharing best practices from its Regulatory Program with other Federal agencies, including on the use of general permits, and on the synchronization of review processes, which was memorialized by the September 2015 release of the handbook entitled "Synchronizing Reviews for Transportation and Other Infrastructure Projects," also known as the Red Book. The Corps also has supported transparency and accountability, for example, by working with other agencies to provide permitting timelines for projects on the Infrastructure Permitting Dashboard.

Starting in 2016, the Corps has been actively working with the Federal Permitting Improvement Steering Council (FPISC) and its member agencies to provide information on its Regulatory Program tools, databases, and codified decision-making procedures. The Regulatory Program utilizes a streamlined efficient permitting process for the majority of activities it reviews. GPs are available where the proposed activity is minor, in terms of its anticipated impacts on aquatic resources. GPs reduce the time and therefore cost to the applicant of preparing an application and reduce the time and cost to the Corps of reviewing the application. In FY 2016, 94% of the Corps permit workload was processed by GPs, and 87% of GPs were issued in 60 days or less. GPs enable the Corps districts to focus on proposed activities that are more likely to have the potential for substantial adverse environmental impacts on aquatic resources, and therefore to require a more detailed project specific review. For applicants proposing such activities, the process involves submitting an individual permit (IP). Of the activities requiring IPs, 58% were issued within 120 days of receipt of a complete application.

The Corps has actively engaged with FPISC and other member agencies in the development of the implementation guidance for FAST-41. It is important to note the scope of covered projects under FAST-41 generally applies only to certain infrastructure proposals that are subject to the National Environmental Policy Act (NEPA), likely to require an investment of more than \$200 million, and do not qualify for abbreviated authorization or environmental processes under any applicable law (the objective category), or are subject to NEPA. Another factor for projects to be included is when, the size and complexity, in the opinion of the FPSIC Council, make the projects likely to benefit from enhanced oversight and coordination, including projects likely to require authorization from or environmental review involving more than two Federal agencies or the preparation of an environmental impact statement under NEPA (the discretionary category). Based on the experience of the Corps with the additional cost to the government for compliance with the FAST-41 coordination and procedures, an expansion in the applicability of FAST-41 could have the unintended consequence of degrading the level of service provided to the rest of the regulated public. The Corps processes approximately 80,000 permit actions per year.

The Corps staff at all levels of the organization have worked expeditiously in the implementation of FAST-41. We are continuing to work at further improvements to facilitate implementation of the Act such as automating data entry to the extent possible by making the Federal Infrastructure Dashboard compatible with existing agency websites that track some of the data required on the dashboard.

It may also help to clarify that FAST-41 is most beneficial to those projects where the Federal government has a substantial role in permitting or approving the project, but which does not already qualify for abbreviated authorization or environmental review processes under other statutes. For example, there may be large infrastructure projects that meet FAST-41 criteria for listing as a covered project, but the Federal government may only have a role in the review of an ancillary component of the larger infrastructure project, the review of which is already abbreviated, using existing authorities such as the Corps Nationwide Permits Program under the Clean Water Act.

Thank you for the opportunity to share the Corps experience and perspectives on implementation of FAST-41. We look forward to continuing to support FPISC and other member agencies on sharing of best practices and greater efficiency and transparency in our review of infrastructure projects.