

**Office of the Assistant Secretary for Transportation
Policy (OST-P)
SEC. 1317. MODERNIZATION OF THE
ENVIRONMENTAL REVIEW PROCESS
Report to Congress**

December 5, 2016

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I. Introduction

On December 4, 2015, President Obama signed into law the Fixing America’s Surface Transportation Act, or “FAST Act.” The FAST Act authorizes \$305 billion over fiscal years 2016 through 2020 for highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous material safety, rail, and research, technology, and statistics programs. Section 1317 (Modernization of the Environmental Review Process) of the FAST Act focuses on accelerating project delivery to save time and money while improving environmental outcomes. Section 1317 is divided into three sections:¹

- Section 1317(a) requires the Secretary to examine ways to modernize, simplify, and improve the Department’s implementation of the National Environmental Policy Act (NEPA);
- Section 1317(b) outlines the materials, tools, resources, and methods that must be considered in the examination conducted under Section 1317(a) (see adjacent textbox); and
- Section 1317(c) requires that the Secretary to submit a report describing the results of this review to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environmental and Public Works of the Senate.

<p style="text-align: center;">Section 1317(b) of FAST Act</p> <p>Obligates DOT to consider, in the examination conducted under Section 1317(a) —</p> <ol style="list-style-type: none">(1) the use of technology in the process, such as—<ol style="list-style-type: none">(A) searchable databases;(B) geographic information system mapping tools;(C) integration of those tools with fiscal management systems to prove more detailed data; and(D) other innovative technologies;(2) ways to prioritize use of programmatic environmental impact statements;(3) methods to encourage cooperating agencies to present analysis in a concise format; and(4) any other improvements that can be made to modernize process implementation.”
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This report serves to meet the Section 1317(c) requirement that a report to Congress be submitted no later than one year from the enactment of the Act (December 4, 2015). In this report, DOT reviews the ways it has modernized, simplified, and improved the environmental review process. Overall, the Department has made successful headway promoting concurrent rather than sequential reviews and collaborative rather than independent decision making, improving efficiency and timeliness of environmental review and permitting, and achieving better decisions and outcomes. The Department continues to seek methods that refine this process and responsibly accelerates the environmental review and permitting process.

This report summarizes the current state of the Department’s ongoing examination as detailed in Section 1317(b) of the FAST Act, presented in the following sections:

- **Background:** Reviews the background and history of “Modernization of Environmental Review” and presents the activities outlined in this report.
- **Use of Technology in Environmental Review:** Describes the current use of technology in environmental review by DOT and its stakeholders (e.g., searchable databases, GIS system

¹ See Appendix A for Section 1317 of the FAST Act.

mapping tools, integration of these tools with financial management systems, and other innovative technologies).

- **Prioritization of Programmatic Environmental Impact Statements:** Describes the use of programmatic EISs and other programmatic approaches.
- **Methods to Encourage Cooperating Agencies to Present Analysis in Concise Format:** Details DOT-led activities and cross-government efforts to present all environmental review analyses in concise and clear formats.
- **Additional Improvements that can be made to Modernize Process Implementation:** This section will describe additional opportunities to modernize the environmental review process on which DOT hopes to capitalize during the duration of the FAST Act.
- **Conclusions:** Summarizes key findings of this report and identifies next steps for the Department.

II. Background

Prior to the FAST Act, the Department was actively engaged in providing programs, guidance, and direction to assist transportation practitioners in the environmental review and permitting process:

- **Transportation Authorizations.** In 1998, the Transportation Equity Act for the 21st Century (TEA-21) was enacted as public law, mandating and defining environmental streamlining as the timely delivery of transportation projects while protecting and enhancing the environment. Environmental streamlining required transportation and natural, cultural, and historic resource agencies to establish realistic timeframes for transportation and environmental resource agencies when developing projects, and to work cooperatively to adhere to those timeframes.

In 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) improved safety, reduced traffic congestion, improved efficiency in freight movement, increased intermodal connectivity, protected the environment, and laid the groundwork for addressing future challenges. SAFETEA-LU included effective guidance on efficient environmental reviews for project decision making.²

In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) was enacted and created a streamlined and performance-based surface transportation program that accelerates project delivery and encourages innovation through the increased use of categorical exclusions, programmatic approaches, and planning and environmental linkages.

In addition to the many provisions in Title 1 of the FAST Act that modify the project delivery process, Title 41 (FAST-41) sets forth a set of provisions aimed at accelerating project delivery. Notably, it creates the Federal Permitting Steering Council made up of 13 agencies and led by an Executive Director. The Council coordinates the Federal permitting and review processes for major and covered projects and seeks to implement the provisions outlined in FAST-41.

- **Administration Efforts.** DOT has been a leader in deploying Administration efforts, including activities in support of the August 2011 Presidential Memorandum, Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review; Executive Order 13604, Improving Performance of Federal Permitting and Review of Infrastructure Projects; the May 2013 Presidential Memorandum, Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures (PM); the Administration's Cross-Agency Priority (CAP) Goal;³ and the PM's May 2014 Implementation Plan (Implementation Plan).⁴

² See the following website for documents:

https://www.environment.fhwa.dot.gov/strmlng/environmental_provisions.asp

³ Cross-Agency Priority Goals address the longstanding challenge of tackling horizontal problems across vertical organizational silos. Fifteen Cross-Agency Priority Goals were announced in the 2015 Budget, which include seven mission-oriented and eight management-focused goals with a four-year time horizon. To establish these goals, OMB solicited nominations from Federal agencies and several Congressional committees. The Infrastructure Permitting Modernization Goal is to 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.

⁴ Implementation Plan available at

<https://www.permits.performance.gov/sites/permits.performance.gov/files/docs/pm-implementation-plan-2014.pdf>

- DOT Initiatives.** DOT and its Operating Administrations (OAs) each have their own specific initiatives aimed at modernizing environmental review. These include eNEPA, PAPAI, PMT, FTA Environmental Standard Operating Procedures, and other initiatives included in Every Day Counts (now codified in the FAST Act) and elsewhere, such as planning and environmental linkages, expanding the use of programmatic approaches (PAs),⁵ and improving the quality of environmental documents. In addition, DOT played a substantial role partnering with other Federal agencies to develop the Permitting Dashboard for Federal Infrastructure Projects (Dashboard), which allows for more effective and transparent information sharing and schedule tracking during the project review process, including environmental reviews and permitting.

In support of the FAST Act, DOT and its Operating Administrations plan to continue their legacy programs, and seek to implement new techniques that will modernize the NEPA process. This report details the activities that best demonstrate DOT’s continued efforts in streamlining and modernizing the NEPA process. Table 1 specifies the activities aligned with the outlined considerations of FAST Act, Section 1317(b) that are discussed in subsequent sections of this report.

Table 1. DOT activities, guidance, and programs that support Section 1317(b) of the FAST Act

Use of Technology	Prioritization of Programmatic EISs	Methods to Encourage Analyses in a Concise Format	Improvements to Modernize Process Implementation
<ul style="list-style-type: none"> Permitting Dashboard eNEPA DOT Project Tracking Systems (PAPAI, PMT, TrAMS) Financial Project Management Systems 	<ul style="list-style-type: none"> Tiered NEPA Programmatic Approaches⁶ 	<ul style="list-style-type: none"> Permitting Dashboard IQED Red Book National Transit Institute’s Managing the Environmental Review Process Course 	<ul style="list-style-type: none"> PEL CE Expansion Combined FEIS/ROD SHRP2 Landscape-scale Mitigation/Eco-Logical Liaison Agreements Environmental Staffing and Training Environmental Standard Operating Procedures

These efforts have shown success in accelerating the environmental review and permitting processes for transportation projects and achieving improved outcomes for the environment and communities. Specific examples include:

⁵ A PA is a document that contains the terms of a formal, legally binding agreement between parties (e.g., a State DOT and other State and/or Federal agencies). It may also establish a process for consultation, review, and compliance with one or more Federal laws. For more information, see: <http://www.fhwa.dot.gov/innovation/everydaycounts/edc-1/programmatic.cfm>

⁶ Other programmatic approaches, including Programmatic Agreements, are discussed in other sections of this document.

- CE Expansion increases the opportunity to satisfy NEPA through the use of categorical exclusions (CEs), which are generally completed in days to approximately six months, rather than requiring environmental assessments (EAs) or environmental impact statements (EISs). However, where use of an EIS is required, the Department has reduced the time from a notice of intent to a record of decision (ROD) through processes codified in the FAST Act; and
- Under the Every Day Counts (EDC) initiative, best practices are shared among stakeholders to more efficiently complete environmental review and permitting, resulting in accelerated deployment of these proven processes across the nation.

Additional information on these and other examples of success in DOT's implementation of NEPA modernization efforts are detailed below. By continuing efforts such as those referenced in Table 1, DOT will simplify and improve the environmental review process. As DOT continues to implement the FAST Act, the Department will continue to examine the ongoing and upcoming initiatives and look to innovations developed by other agencies and participate in interagency efforts to further modernize the NEPA process and accelerate project delivery.

III. Use of Technology in Environmental Review

Across the Federal government, agencies have worked to implement a number of technology tools to modernize NEPA and achieve faster and improved outcomes for the environmental review and permitting process. DOT has historically been a leader in using technology to advance innovation, and this work has been exemplified through the Cross-Agency Priority (CAP) Goals.⁷ One of these

Goals specifically addresses infrastructure permitting modernization, which includes considering best practices for expanding the use of information technology (IT). DOT has successfully worked with its Federal partners and within its OAs to examine and implement a number of IT approaches.

Permitting Dashboard. The Permitting Dashboard, an on-line tool developed in 2012 and expanded in 2016, allows agencies⁸ to report performance schedules for infrastructure projects that meet certain criteria of size, complexity, or class of action.⁹ Specifically, the Dashboard is used by Federal agencies, project developers, and the public to track the permitting and environmental review of proposed infrastructure projects. Developed under the current Administration’s modernization efforts, it was initially used to highlight and track a small group of high-priority projects that served as example projects that could successfully achieve expedited reviews and permitting; the majority of these projects have completed their environmental review and permit processes. Moving forward, the Dashboard establishes a transparent process associated with environmental reviews and permitting, supports coordination and synchronization among Federal agencies, and helps create a more predictable process for project applicants (see adjacent textbox for the benefits of the Dashboard). The Tappan Zee Bridge project serves as an example of the benefits, where Federal agencies completed the permitting and review in a year and a half for a process that normally takes three to five years.

This section focuses on the Department’s successes in meeting Section 1317(b)(1) of FAST Act

It further provides that the examination “shall consider—

- (1) the use of technology in the process, such as—
 - (E) searchable databases;
 - (F) geographic information system mapping tools;
 - (G) integration of those tools with fiscal management systems to prove more detailed data; and
 - (H) other innovative technologies;

Benefits of the Dashboard

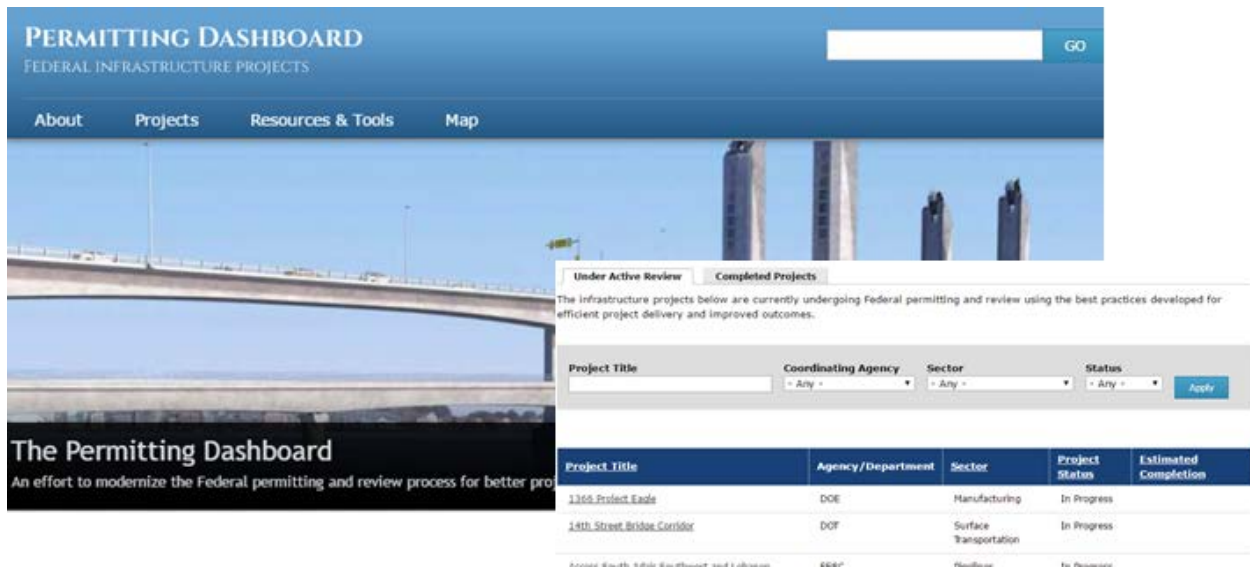
- Increases transparency of the permitting and review process to the public
- Interested parties can receive notice of upcoming projects and track progress on existing projects
- Analyze past project reviews
- Shortens review timelines by encouraging early coordination and synchronization of agency review schedules
- Provides consistent data for analyzing permit and review practices and helps identify ways to continue to improve
- Provides a means to assess progress of reforms and identify common external drivers and trends that affect the project review process
- Tracks

⁷ Cross-Agency Priority Goals to encourage cross-agency collaboration on a limited number of Presidential priority areas. For the 2015 budget, 15 cross-agency priority goals were announced with a 4-year time horizon.

⁸ Department of Agriculture, Department of the Army, Department of Commerce, Department of the Interior, Department of Energy, Department of Transportation, Department of Defense, the Environmental Protection Agency, the Federal Energy Regulatory Commission, the Department of Homeland Security, the Department of Housing and Urban Development, and the Advisory Council on Historic Preservation.

⁹ FAST Act Sections 1301, 41003.

In September 2015, the Council on Environmental Quality (CEQ) and the Office of Management and Budget (OMB) released *Guidance Establishing Metrics for the Permitting and Environmental Review of Infrastructure Projects*¹⁰ to require posting projects on the Dashboard, developed with significant engagement from DOT. With the enactment of the FAST Act, CEQ and OMB are revising the guidance to reflect the FAST Act’s changes to requirements, namely, capturing FAST-41. CEQ and OMB are also revising the guidance to provide direction on considering environmental and community outcomes as they relate to the environmental review and permitting processes and reporting these values on the Dashboard. DOT will review and incorporate these guidance documents into its execution of operation.



DOT collects environmental review milestone data on EAs and EISs from OAs with infrastructure projects. This process transitioned to posting infrastructure projects on the Permitting Dashboard as directed by the FAST Act.^{11,12} In addition, DOT is examining options to integrate these and other OA project tracking systems as described below into the Permitting Dashboard as a way to further increase the efficiency of environmental review and permitting through IT tools. The Dashboard is a dynamic tool that will continue to be monitored, adjusted, and expanded as agencies gain experience with the system and identify new opportunities for improvement.

The remaining information in this section outlines ongoing technological resources housed within DOT.

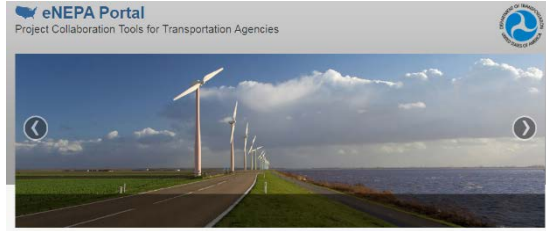
DOT Project Tracking Systems. Several DOT OAs are effectively using project tracking systems to more efficiently oversee the environmental review and permitting process. Examples include:

¹⁰ Available at <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2015/m-15-20.pdf>

¹¹ FAST Act Section 1304.

¹² The Dashboard initially included infrastructure projects of national or regional significance, before transitioning to include all covered projects under FAST Act Section 41003.

- **eNEPA.** The Federal Highway Administration’s (FHWA) eNEPA tool is a real time online system for coordinating the development of NEPA documents. The eNEPA tool allows State DOTs to share documents, track comments, schedule tasks with participating agencies, and perform concurrent reviews for their EIS and EA projects.



The tool aids collaboration, maintains schedules, and manages the project record. State DOTs, as well as Federal cooperating agencies, register their personnel to use the web-based collaborative tool for highway projects. Several State DOTs have tested eNEPA as part of a pilot program. FHWA continues to make additions to the tool’s functions utility, marketability to both State DOTs and resource agencies, and training to increase the tool’s usability. Given the realized success to date, eNEPA is serving as an example for other DOT OAs that are exploring ways to improve the efficiency of their NEPA process.

- **Project Management Tracker.** The Federal Railroad Administration’s (FRA) Office of Program Delivery uses an internal tracking database called Project Management Tracker (PMT). This database tracks FRA rail project milestones for NEPA, as well as grants and other processes required to award, approve, and construct projects funded or otherwise approved by FRA. PMT tracks major NEPA milestones, allows for estimated completion dates and actual completion dates of milestones, and links to other aspects of the project and related projects. The database includes CE determinations, EAs, and EISs, and allows searches of the data to assist FRA in reporting information from number of EISs to completing a recent request of the FAST Act to survey FRA’s use of CEs.
- **TrAMS.** In the fall of 2015, FTA replaced its existing grant management system, TEAM (Transportation Electronic Award Management), with the Transit Award Management System (TrAMS). TrAMS provides a more efficient, user-friendly, and flexible tool to award and manage grants and cooperative agreements. It allows FTA to track and sort projects by environmental class of action (CEs, EAs, and EISs), NEPA milestones, and other environmental approvals (e.g., Section 404). The system also allows for the generation of data tables and reports that can link the NEPA class and status of a project to variables such as project location, grant award amount, year, etc.
- **PAPAI.** FHWA’s Project and Program Action Information System (PAPAI) tracks the progress of NEPA documents. PAPAI provides a user-friendly, standardized, automated means for tracking highway projects and their related actions, as well as non-project related actions. PAPAI provides reports, search capabilities, status indicators, among other capabilities. PAPAI is useful for monitoring the progress of a project as it steps through major milestones ranging from initiation to approval of the final decision document.

Financial Project Management Systems. Project tracking systems can also include a financial component that allows integration of financial information with project milestones and environmental review information. For example, FRA’s PMT system integrates environmental review and financial grant data.

Further DOT Collaboration on Interagency Tools. DOT regularly partners with other Federal agencies to provide resources and support to the creation and maintenance of interagency tools. Further, DOT encourages its stakeholders to use these tools throughout planning and project delivery. Examples of this collaboration include the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) tool, as well as the U.S. Army Corps of Engineers’ (USACE) Regulatory In-Lieu

Fee and Bank Information Tracking System (RIBITS). DOT will continue to work with its partners to identify joint needs, and collaborate on mutually beneficial tools and resources.

Federal agencies have started considering the best mechanisms to share data across agencies and with their stakeholders. At present, many of the IT systems are not able to interface with each other, requiring users to engage with different systems but as the Dashboard matures, DOT and its partners will explore how to create pathways to leverage data across systems to improve usability for end users.

IV. Prioritization of Programmatic Environmental Impact Statements

The Department examined various approaches that it has successfully tested and implemented to assist in the prioritization of programmatic EISs. Specifically, DOT has found significant success in using tiering in the NEPA process as well as the use of programmatic approaches to expedite the environmental processes supporting transportation projects. Consistently diligent, DOT continues to evaluate and refine these programmatic prioritization approaches.

This section focuses on the Department's successes in meeting Section 1317(b)(2) of the FAST Act

It further provides that the examination "shall consider—

- ...
- (2) ways to prioritize use of programmatic environmental impact statements;
- ...

Tiered NEPA. DOT effectively uses EIS tiering, which is a programmatic EIS approach, to improve the efficiency and effectiveness of the NEPA process. In general, the tiering process creates a staged environmental review and may consist of multiple tiers. Tiered NEPA may be appropriate to make broad program decisions for large expansive corridor programs that: 1) are too big to be addressed in detail in one document; 2) are phased over time; 3) are not fully defined (e.g., future phases); or 4) evaluate major routing or service alternatives. For example, a two-tier method may be as follows:

- Tier 1: The initial phase of the EIS addressing broad corridor-level issues and impacts. This effort may identify proposed Tier 2 subsections.
- Tier 2: Focusing site-specific analysis and actions in greater detail than Tier 1. This may include EISs, EAs, or CEs (depending on degree of impact).

Under some circumstances, this use of tiering permits the EIS process to advance more efficiently, allowing subsequent tiered documents to be more focused on relevant issues not fully addressed earlier in the process. For example, FRA effectively uses tiering for large projects, such as California high speed rail and passenger rail service between Tucson and Phoenix, Arizona, that consist of independent projects, generally along lengthy rail corridors. DOT will continue to look for opportunities to develop and communicate best practices on the appropriate use of programmatic EISs.

Programmatic Approaches. In 2009, FHWA launched Every Day Counts (EDC) in cooperation with the American Association of State Highway and Transportation Officials (AASHTO) to expedite the delivery of highway projects and to address the challenges presented by limited budgets. EDC is a State-based model that identifies and rapidly deploys proven but underutilized innovations to shorten the project delivery process, enhance roadway safety, reduce congestion, and improve environmental sustainability.¹³ Through several rounds of EDC, best practices to more efficiently complete environmental review and permitting have been shared among stakeholders, resulting in accelerating deployment of these proven processes across the nation. Use of PAs was one of the innovations included in FHWA's

Benefits of Programmatic Agreements (PAs)

- PAs establish streamlined approaches to handling routine environmental reviews on common project types;
- PAs enhance efficiency by:
 - Standardizing coordination and compliance procedures and decreasing the time an agency takes to make a decision or issue a permit, while making outcomes more predictable;
 - Enabling agencies to focus limited staff time and resources more effectively;
 - Specifying clear roles and responsibilities for those involved; and
 - Facilitating the development of greater trust among transportation and regulatory agency staffs.

¹³ For more information, see <https://www.fhwa.dot.gov/innovation/everydaycounts/about-edc.cfm>

EDC-1 and EDC-2 initiatives, and DOT continues to expand the use of PAs across the Department, including encouraging newly developed agreements in additional States and regions. In March 2015, FHWA published the results of EDC-2.¹⁴ As reflected in the Report, all States now have at least one PA and 37 States have two or more. With more than 500 PAs in place across the country, transportation departments and partner agencies report a wide range of benefits, including cost savings, accelerated project delivery, increased certainty about the project development process and project schedule, and decreased review times for State DOT and partner agency staffs.¹⁵

FHWA partnered with the Department's Volpe Center to conduct PA benefit cost analyses by interviewing State and Federal stakeholders regarding the impact of their applicable PAs. The PA types considered were: Endangered Species Act (ESA), Section 7; the National Historic Preservation Act (NHPA), Section 106; and the NEPA/Clean Water Act (CWA), Section 404 Merger Process. A baseline for comparison was established and the estimated quantitative impact was calculated, where data was available.

PA processes and approaches were shown to be cost-beneficial tools that lead to time savings and multiple forms of qualitative and non-quantifiable benefits.

In all cases these studies were retrospective and in some instances, the PA had been in place for over 10 years. The case studies reflected that PA processes and approaches are cost-beneficial tools that lead to time savings and multiple forms of qualitative and non-quantifiable benefits.¹⁶ For example, Kentucky's ESA Section 7 PA resulted in the estimated savings of \$150,000 over a 12 month duration with implementation costs of \$43,000, while Oregon's statewide ESA Section 7 PA resulted in \$1.23 million over an 18 month duration with implementation costs of about \$350,000. In addition to these monetary benefits, qualitative benefits included streamlining and shortening the project review times and project timelines.

Though there are multiple examples of PAs, the following provides examples of recent PAs implemented at regional and national levels with necessary cooperation across DOT OAs and with Federal partners:¹⁷

- **Indiana Bat/ Northern long-eared bat Programmatic Agreement** - The Indiana bat (Ibat) and Northern long-eared bat (NLEB) are found in over most of the Eastern half of the United States (an estimated 37 States and District of Columbia). The Ibat was listed as an endangered species in 1966 and the NLEB was listed as threatened in 2015. The ESA requires Federal agencies to use their authorities to conserve listed species and to consult on any action that may affect a listed species.¹⁸ However, consultation and mitigation approaches for impacts to the Ibat vary greatly among States and have been rapidly changing in recent years. These variations have caused uncertainty, delays, and large workloads for the USFWS, FHWA, FRA, FTA and State DOTs. In September 2012, FHWA entered into an interagency agreement (IAA) with USFWS to support the development of a broad, range-wide Conservation and Consultation Strategy for the Ibat, and later added the NLEB to the consultation. The products resulting from this effort include: (1) a range-wide Conservation Strategy for transportation; and



¹⁴ Available at <https://www.fhwa.dot.gov/innovation/everydaycounts/reports/edc-2-finalreport/>

¹⁵ The Department also participated in a similar effort as directed under the Implementation Plan (discussed above) to survey and collect types of programmatic approaches, including PAs, with the goal of expanding the use of programmatic approaches for routine activities and those with minimal impacts.

¹⁶ For more information, see https://www.fhwa.dot.gov/innovation/everydaycounts/edc-2/pdfs/benefits_costs_of_programmatic_agreements.pdf

¹⁷ Extensive information is available in the EDC-2 Final Report.

¹⁸ Endangered Species Act Section 7(a)

(2) a range-wide informal and formal programmatic consultation for transportation projects, including an in-lieu fee program designed via an agreement with The Conservation Fund. The final consultation was signed by FHWA, FRA, FTA and USFWS.

- **Bridge Planning and Permitting MOA and MOU** - In January 2014, FHWA, FRA, and the FTA developed a multimodal Memorandum of Understanding (MOU) with the USCG to coordinate and improve bridge planning and permitting. In addition, FHWA also entered into an agency-specific Memorandum of Agreement (MOA) with the USCG. The purpose of both the MOU and MOA was to improve efficiencies and reduce redundancies for projects requiring USCG Bridge Permits by:
 - Determining bridge design concepts that unreasonably obstruct navigation as soon as practicable and prior to or concurrent with the NEPA scoping process;
 - Preparing a coordinated environmental document that satisfies both the USCG and FHWA, FTA, or FRA NEPA implementing procedures, and results in a shared or joint environmental decision document; and
 - Where practicable, concurrently conducting the environmental evaluation and processing of the Bridge Permit application.¹⁹

These agreements have led to faster implementation of FRA, FTA, and FHWA bridge projects.

In addition to more traditional PAs, FTA has undertaken a programmatic analysis of the climate change effects of transit projects for the purpose of later supporting individual NEPA evaluation of individual projects. That work, being conducted with the support of DOT's Volpe Center, is currently underway.

Going forward, the Department will continue to encourage the use of PAs, including exploring opportunities for other OAs to use these or similar approaches. This also includes expanding the use of PAs in the application of newly developed approaches in additional States and regions. The emphasis is on increasing the efficiency and effectiveness of the project development process while maintaining appropriate consideration of the environment.

¹⁹ For more information, see <https://www.environment.fhwa.dot.gov/strmlng/newsletters/nov15nl.pdf>

V. Methods to Encourage Cooperating Agencies to Present Analyses in a Concise Format

DOT continues to implement efforts that modernize NEPA through enhancing the presentation of the environmental analysis as a way to improve the quality of the documents, accelerate the process, and achieve better outcomes. The information below summarizes some of the activities examined and currently being implemented.

This section focuses on the Department’s successes in meeting Section 1317(b)(3) of FAST Act

It further provides that the examination “shall consider—
...
(3) methods to encourage cooperating agencies to present analysis in a concise format; ...

Permitting Dashboard (described above in Chapter III). Among the many benefits of this tool are facilitating early collaboration of infrastructure project reviews, and promoting synchronized permitting and environmental reviews. Early collaboration and synchronization will result in presenting analysis in concise format (e.g., discussing issues early, deciding on document format and expectations), while satisfying the environmental review and permitting responsibilities of various agencies under NEPA and other substantive environmental statutes.

IQED. The Implementing Quality Environmental Documentation (IQED) effort that began under FHWA’s EDC-2 initiative promotes current recommendations and best practices for simplifying and expediting the development of environmental documents. The focus is on ensuring that the three core principles of IQED—tell the story, keep the document brief, and ensure legal sufficiency—form the foundation

3 Core Principles of IQED

1. Tell the story
2. Keep the document brief
3. Ensure legal sufficiency

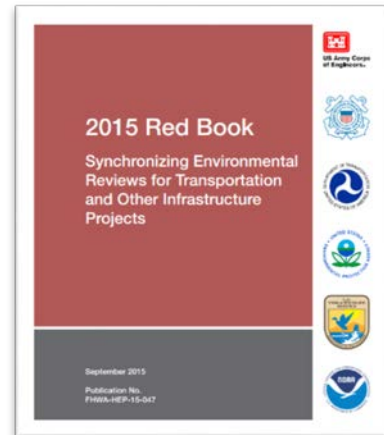
of the NEPA document, and that project purpose and need, consideration of alternatives, and impacts are appropriately documented and included. The EDC-3 effort builds on EDC-2 by incorporating eNEPA. As noted above, eNEPA provides a technological tool for State DOTs to share documents, track comments, schedule tasks with participating agencies, and perform concurrent reviews for their EIS and EA projects. This will reduce workload demands of agency required to collaborate, maintain schedules, and manage the project record. When combined with IQED, eNEPA helps agencies transition to an electronic review process that can be done concurrently with more effective interagency dialog in real time. Long-term, this results in better, more detailed information and as more projects are completed in eNEPA, FHWA can use this data to identify improvements in the project development process, including new opportunities for PAs to expedite project delivery.

Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects (Red Book). In September 2015, FHWA, the USACE, and other agencies released the “Red Book,” an update to an earlier 1988 handbook.²⁰ The 2015 Red Book, a deliverable under the Implementation Plan, is a guide for Federal, State, and local agencies on synchronizing the NEPA and other regulatory reviews such as USACE’s Regulatory review, USCG bridge permit reviews, ESA consultation, etc. It is useful to Federal agencies that review permit applications, and Federal, State, and local agencies that fund or develop major transportation and other infrastructure projects. It discusses the requirements of many statutes and regulations to facilitate the reader’s understanding of how compliance with those requirements can be fulfilled while implementing the synchronization concept discussed in the Red Book. By providing guidance on the use of review synchronization, more effective and efficient regulatory reviews are anticipated and are expected to result in projects with reduced impacts to the environment as well as savings of time and money.

²⁰ Available at https://www.environment.fhwa.dot.gov/strmlng/Redbook_2015.pdf

The Red Book also captures lessons learned from previous review synchronization efforts, and breaks down the concurrent review procedure into easy to understand components, affording agencies the opportunity to replicate the procedure or portions of the procedure more widely and without having to execute a formal agreement. It further explores the appropriate considerations for conducting a synchronized review, including those topics and areas where challenges may occur. The Red Book also identifies best practices such as the use of transportation liaisons, innovative mitigation practices, and communication technology.

Through outreach based on the 2015 Red Book and implementation of the tools that help align agency requirements, the Department continues to successfully modernize and improve the environmental review process under NEPA.



VI. Additional Improvements that can be made to Modernize Process Implementation

Many activities the Department is examining and implementing to modernize NEPA fall into “additional improvements to modernize process implementation.” Below are brief descriptions of several examples that include other EDC initiatives, efforts under the Implementation Plan, and implementation of project delivery provisions of MAP-21 and the FAST Act. Among these are planning and environmental linkages (PEL), CE expansion, combined final EIS and record of decision documents (FEIS/ROD), SHRP 2 tools, and the liaison program.

This section focuses on the Department’s successes in meeting Section 1317(b)(4) of FAST Act

It further provides that the examination “shall consider—

- ...
- (4) any other improvements that can be made to modernize process implementation.”

PEL. PEL represents a collaborative and integrated approach to transportation decision-making that (1) considers environmental, community, and economic goals early in the transportation planning process, and (2) uses the information, analysis, and products developed during planning to inform the environmental review process. FHWA advanced PEL as an EDC project delivery streamlining technique. It has also been the subject of project delivery provisions in SAFETEA-LU, MAP-21, and the FAST Act.²¹ FHWA released the PEL Benefits report (2015), a study that explores and documents the benefits stemming from incorporating PEL strategies into State, regional, and local planning and project development processes. The report includes five case studies from across the country that detail five different implementations of PEL strategies and their attendant benefits. The case studies investigated two common PEL strategies: PEL studies and electronic screening tools. The most common benefits included facilitation of the environmental review process, cost and time savings, and a flexible evaluation of alternatives. This report can be accessed on the PEL website.²²

FHWA and FTA addressed FAST Act changes in the Planning rulemaking to include new authorities for using planning information in the environmental review process for NEPA (MAP-21 Section 1310 and FAST Act Section 1305, Planning and Environmental Linkages). The final rule incorporates PEL and was issued in May 2016.

CE Expansion. CE-type actions comprise the bulk of the Federal-Aid Highway Program. CEs made up 92 percent of FHWA construction projects in 2006 and nearly 98 percent of FHWA construction projects in 2011. From a NEPA perspective, the time for completion of a CE ranges from days to, in the case of a documented CE, approximately six months. At FHWA, State DOTs undertake the vast majority of CE NEPA compliance through programmatic CE agreements with the FHWA Division Offices. Nearly all States had programmatic CE agreements in place as of the end of 2015. FHWA continues to work with all States to ensure their PAs incorporate all the CE streamlining provisions in MAP-21 and the FAST Act. MAP-21 resulted in many additional actions being able to satisfy NEPA through a CE. These include actions within the operational right-of-way (ROW) and actions with limited Federal assistance. A few States (notably Texas) have embraced the use of the new MAP-21 CEs for actions within the ROW and

²¹ “The final rule explicitly recognizes a variety of PEL methods that may be used to integrate planning with environmental reviews. The PEL provisions are in sections 450.212 and 450.318. Only sections 450.212(d) and 450.318(e) are new provisions, added as a result of the PEL authority created in the MAP-21 and substantially amended in FAST.” 81 FR 34053

²² Available at https://www.environment.fhwa.dot.gov/integ/PEL_Benefits_report.asp

for actions with less than \$5 million of Federal funds. A number of other actions now also qualify for satisfying NEPA through a CE as a result of implementing the MAP-21 project delivery provisions.

FTA also processes almost all its projects through CEs. In 2013, FTA modernized its list of CEs by creating an FTA-specific list of all new CEs to reflect FTA's public transportation program (see 23 CFR 771.118). Through MAP-21 implementation, FTA expanded the list to categorically exclude more actions through the addition of six new CEs. Today, FTA has 16 CEs, as well as the flexible d-list, and encourages project sponsors to consider whether a project falls under a CE first rather than starting with a higher class of action.

As required by the FAST Act, FRA recently surveyed its use of CEs in railroad projects since 2005. On June 2, 2016, FRA published a notice in the *Federal Register* providing the public with a review of FRA's survey, requesting comments on two new classes of actions that might be appropriate for categorical exclusion, and requesting suggestions for additional categories of activities appropriate for exclusion. 81 FR 35437, June 2, 2016. FRA received three comments in response to the *Federal Register* Notice which it will consider when developing new CEs.

Combined FEIS/ROD. DOT is using combined FEIS/RODs to the maximum extent practicable, and they are becoming standard operating procedure nationwide for OA EIS projects. MAP-21 first authorized use of this process, which the FAST Act subsequently codified. Since 2013, FHWA has issued eighteen combined FEIS/ROD documents, covering actions in fourteen States and DC, and FTA has issued six combined FEIS/ROD documents, covering actions in two FTA Regions. Where used, this accelerates completion of the NEPA process by eliminating the minimum 30-day waiting period between publication of a FEIS and issuance of a ROD.

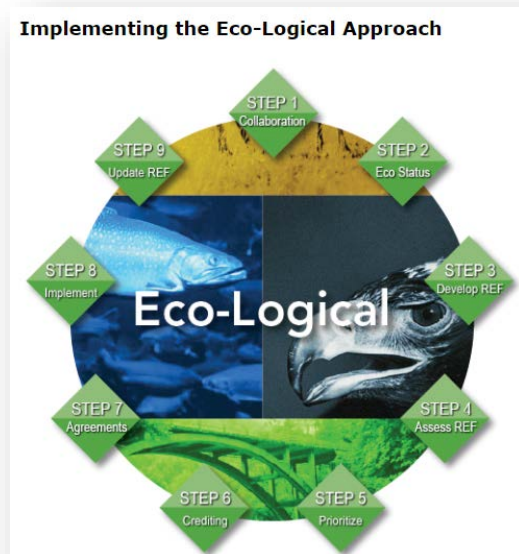
SHRP 2. FHWA and the National Highway Traffic Safety Administration (NHTSA) are presently implementing the Strategic Highway Research Program (SHRP) 2 Solutions, a collection of products that emerged from research designed to address the most pressing problems facing the Nation's highway system.²³ They include new techniques and innovative ways to plan, operate, maintain, and improve safety on our roadways. SHRP 2 Solutions accelerate project delivery, capitalize on taxpayer investment, and strengthen the highway system as the backbone of the American economy to serve us through the 21st century. Those associated with modernizing NEPA include the following:

- **Expediting Project Delivery (C19).** Expediting Project Delivery focuses on addressing constraints through implementation of 24 identified strategies to accelerate the delivery of transportation planning and environmental review projects. FHWA awarded approximately \$1.5 million to 12 State DOTs and MPOS as part of the Implementation Assistance Program to implement their projects. At the national level, FHWA continues to promote programs and initiatives and to adopt policies that are consistent with the expediting strategies. Policies, programs, and initiatives that reduce delays include many referenced here such as MAP-21 and FAST Act provisions that improve project delivery, PEL, EDC, Eco-Logical, etc.
- **PlanWorks.** PlanWorks is a web resource that supports collaborative decision making in transportation planning and project development.²⁴ PlanWorks is built around key decision points in long-range planning, programming, corridor planning, and environmental review. PlanWorks suggests when and how to engage cross-disciplinary partners and stakeholder groups. This system can help build consensus throughout these processes.

²³ For more information, see: <https://www.fhwa.dot.gov/goshrp2/>

²⁴ Available at <https://fhwaapps.fhwa.dot.gov/planworks/>

- Implementing Eco-Logical (C06).** Since the publication of the document *Eco-Logical* in 2006, DOT has promoted this method for methods for addressing natural resource identification, avoidance, minimization and mitigation into a systematic, step-wise process that starts at the beginning of the transportation planning process and concludes with establishing programmatic approaches to recurring natural resource issues implemented at the project level. Numerous benefits to this approach result in improved outcomes for the environment and communities, described in more detail on FHWA’s Eco-Logical website.²⁵ In 2016, FHWA and the other Eco-Logical signatory agencies celebrated 10 years of jointly implementing a landscape-scale approach to infrastructure development. DOT, and its partners continue to seek news to deploy this approach across the country.



Landscape-scale Mitigation. The Implementation Plan included a goal to expand innovative mitigation approaches to facilitate landscape-level mitigation planning, consistent and transparent standards for applying the mitigation hierarchy, and advance mitigation and use of in-lieu fee program and mitigation banks. The Department worked with CEQ, OMB, and other agencies to identify barriers to widespread adoption of innovative mitigation approaches and develop recommendations on how to resolve them.

Liaison Agreements. Transportation liaisons are resource or regulatory agency personnel, funded by FHWA or State DOTs that facilitate the environmental and permitting review process for transportation projects. The Department and State DOTs have provided funding to support transportation liaison positions since 1998, through the Transportation Equity Act for the 21st Century (TEA-21), SAFETEA-LU, and MAP-21. State DOTs and other grantees may use funding, including Federal-aid highway funding, to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, under 23 U.S.C. § 139(j).²⁶ Funds may support the following:

Transportation liaisons engage in projects earlier in the process, thereby improving project delivery by providing predictability and accelerating environmental review and permitting.

- Transportation planning activities that precede the initiation of the environmental review process;
- Activities directly related to the environmental review process;
- Dedicated staffing (liaisons);
- Training of agency personnel;
- Information gathering and mapping; and
- Development of programmatic agreements.

²⁵ Available at https://www.environment.fhwa.dot.gov/ecological/eco_entry.asp

²⁶ For example, the United States Army Core of Engineers (USACE) uses Section 214 of Water Resource Development Act (WRDA) 2000, as amended, to support many of USACE transportation liaisons to state DOTs.

More recently, the FAST Act provided additional authority that offers the opportunity to expand the liaison program across DOT OAs. 49 U.S.C. § 307.

Transportation liaisons engage in projects earlier in the process, thereby improving project delivery by providing predictability and accelerating environmental review and permitting. Early coordination and communication can alert agencies of environmental issues so that they can avoid and minimize environmental impacts prior to submitting a project for review. Not only does this process improve environmental outcomes, it also saves time and money. Additionally, at the national level, FHWA supports national liaisons at the headquarters office of the following Federal agencies: Advisory Council on Historic Preservation (ACHP), Environmental Protection Agency (EPA), USFWS, National Marine Fisheries Service (NMFS), USACE, and the USCG. Each of these individual agency liaisons is responsible for national level coordination with FHWA, and for coordinating with and promoting liaison positions in the field.

Environmental Staffing and Training. FTA recognized the need to improve environmental management of its projects through regional offices and began hiring Environmental Protection Specialists in Regional Offices in 2010. Prior to 2010, FTA Headquarters environmental professionals were assisting regional staff in reviewing environmental documents from around the country. Now, Regional environmental professionals manage the environmental review process, review associated documents, and serve as the Region’s primary environmental expert, while Headquarters environmental staff focus on policy, subject matter expertise, and training activities.

FTA headquarters staff created a Regional Training Program consisting of ten pre-recorded training modules that are available at all times to staff via the FTA Office of Environmental Program’s SharePoint site. The trainings are a valuable tool for new and existing staff needing to become familiar with and manage efficiently FTA’s environmental review process. In addition to the training modules the SharePoint site is a valuable staff resource containing blogs, examples and templates, and a list of environmental resources with links for further education. FTA also provides extensive training available to the public and Federal staff through the National Transit Institute on a wide variety of environmental topics.

Standard Operating Procedures. In 2012, FTA Headquarters environmental professionals developed “Environmental Review Process Standard Operating Procedures (SOP)” in order to improve consistency among the Regional offices by outlining staff roles and responsibilities in managing the environmental review process. The (now 20) SOPs focus on key milestones, processes, and documents in the environmental review process. FTA considers the SOPs to be living documents; Headquarters and Regional staff revisited the SOPs in 2014 to reflect MAP-21 changes and recently revised the documents to reflect FAST Act changes to the process. The current version of the SOPs is available on FTA’s public web site.²⁷

²⁷ Available at <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/environmental-standard-operating-procedures>

VII. Conclusions

As demonstrated in this report, DOT has made and continues to make significant advances towards modernizing, simplifying, and improving the implementation of NEPA:

- The Department has accelerated the environmental review process for transportation project by institutionalizing best practices and expediting complex infrastructure projects without undermining critical environmental laws or opportunities for public engagement.²⁸
- The Department continues to examine a number of tools and processes to modernize NEPA, and implements those that are successful in improving the efficiency of the environmental review and permitting process to accelerate project delivery, while concurrently resulting in improved environmental and community outcomes.

As a result, timelines for delivering critical infrastructure projects continue to improve while maintaining our commitment to protect the environment and preserve community values.

The Department has launched the DOT Permitting Improvement Center. This dedicated team of staff supports the ongoing improvement of Federal permitting and review for major infrastructure projects. The Center collaborates with the Federal Permitting Improvement Council to identify and implement best practices that improve the Federal permitting and review process and to oversee the Dashboard .

The Department submits this report describing the results of the FAST Act mandated review carried out and summarized above, capturing to date efforts to modernize the review process. DOT efforts to modernize NEPA are ongoing and will continue beyond the report. As the Department has in the past, it will continue to look for ways to modernize NEPA and improve the environmental review process.

²⁸ Additional Information: <https://www.fhwa.dot.gov/fastact/factsheets/accelprojdelfs.pdf>

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IX. Appendices

Appendix A. Acronyms

Abbreviation	Name
CAP	Cross-Agency Priority
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
CWA	Clean Water Act
DOT / USDOT	U.S. Department of Transportation
EA	Environmental Assessment
EDC	Every Day Counts
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FHWA	Federal Highway Authority
FEIS	Final Environmental Impact Statement
FRA	Federal Railroad Authority
FTA	Federal Transit Authority
FAST Act	Fixing America's Surface Transportation (FAST) Act
IAA	Interagency Agreements
Ibat	Indiana bat
IQED	Implementing Quality Environmental Documentation
IT	Information Technology
MAP-21	Moving Ahead for Progress in the 21st Century Act
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NLEB	Northern long-eared bat
OA	Operating Administrations

Abbreviation	Name
OMB	Office of Management and Budget
PA	Programmatic Assessment
PAPAI	Project and Program Action Information System
PEL	Planning and Environmental Linkages
PM	Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures
PMT	Project Management Tracker
ROD	Record of Decision
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SHRP 2	Second Strategic Highway Research Program
USACE	United States Army Corps of Engineers
USCG	United States Coast Guard
USDOT	United States Department of Transportation
USFWS	United States Fish and Wildlife Service

the Senate recommendations for legislation to permit the assumption of additional authorities by States, including with respect to real estate acquisition and project design.

SEC. 1317. MODERNIZATION OF THE ENVIRONMENTAL REVIEW PROCESS.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall examine ways to modernize, simplify, and improve the implementation of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the Department.

(b) **INCLUSIONS.**—In carrying out subsection (a), the Secretary shall consider—

(1) the use of technology in the process, such as—

(A) searchable databases;

(B) geographic information system mapping tools;

(C) integration of those tools with fiscal management systems to provide more detailed data; and

(D) other innovative technologies;

(2) ways to prioritize use of programmatic environmental impact statements;

(3) methods to encourage cooperating agencies to present analyses in a concise format; and

(4) any other improvements that can be made to modernize process implementation.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the results of the review carried out under subsection (a).

Appendix C. Summary of initiatives supporting Section 1317(b) of the FAST Act

Table C-1. Summary of key initiatives and programs supporting Section 1317(b) of the FAST Act

<i>Initiative/Policy/Program</i>	Brief Summary	(1) Use of Technology	(2) Programmatic Prioritization	(3) Encourage Cooperation of Concise Formatting	(4) Additional Improvements
<i>Federal Permitting Dashboard (Federal Government)</i>	On-line tool in 2016, requires agencies to report performance schedules for all new infrastructure projects that meet certain criteria of size and complexity	√		√	
<i>eNEPA (FHWA)</i>	Real-time online system that allows State DOTs to share documents, track comments, schedule tasks with participating agencies, and perform concurrent reviews for their EIS and EA projects	√			
<i>PAPAI (FHWA)</i>	Allows FHWA to track the progress of NEPA documents	√			
<i>PMT (FRA)</i>	Internal tracking database that tracks FRA rail project milestones for NEPA, as well as grants and other processes required to award, approve, and construct projects funded or otherwise approved by FRA	√			
<i>FTA TrAMS (FTA)</i>	An internal website for FTA to record and track EIS and EA documents	√			
<i>Tiered NEPA (FRA, FTA, FHWA)</i>	Programmatic EIS approach to improve the efficiency and effectiveness of the NEPA process, particularly appropriate to make broad program decisions for large expansive corridor programs that are: 1) too big to be addressed in detail in one document; 2) are phased over time; 3) where future phases are not fully defined; or 4) when major routing or service alternatives need to be evaluated		√		
<i>Programmatic Approaches (PA) (FRA, FTA, FHWA)</i>	Spells out the terms of a formal, legally binding agreement between a State DOT and other State and/or federal agencies to increase the efficiency and effectiveness of the project development process while maintaining appropriate consideration of the environment		√		
<i>IQED (FHWA)</i>	Promotes current recommendations and best practices for simplifying and expediting the development of environmental documents			√	

<i>Initiative/Policy/Program</i>	Brief Summary	(1) Use of Technology	(2) Programmatic Prioritization	(3) Encourage Cooperation of Concise Formatting	(4) Additional Improvements
<i>Red Book (FHWA)</i>	A guide for Federal, State, and local agencies on synchronizing the NEPA and other regulatory reviews such as USACE's Regulatory review, USCG bridge permit reviews, ESA consultation, etc.			√	
<i>PEL (FRA, FTA, FHWA)</i>	Collaborative and integrated approach to transportation decision-making that (1) considers environmental, community, and economic goals early in the transportation planning process, and (2) uses the information, analysis, and products developed during planning to inform the environmental review process				√
<i>CE Expansion (FHWA, FRA)</i>	Expansion of the understanding of projects that can take CE-type actions to help streamline the NEPA process				√
<i>FEIS/ROD (DOT)</i>	Using combined FEIS/RODs to the maximum extent practicable, and they are fast becoming standard operating procedure nationwide for OA EIS projects				√
<i>SHRP2 (FHWA)</i>	New techniques and innovative ways to plan, operate, maintain, and improve safety on our roadways. SHRP 2 Solutions accelerate project delivery, capitalize on taxpayer investment, and strengthen the highway system (includes expediting project delivery, PlanWorks, Eco-Logical)				√
<i>Landscape-scale Mitigation (DOT)</i>	Implementation Plan included a goal to expand innovative mitigation approaches to facilitate landscape-level mitigation planning, consistent and transparent standards for applying the mitigation hierarchy, and advance mitigation and use of in-lieu fee program and mitigation banks				√
<i>Liaison Agreements (DOT)</i>	Transportation liaisons are personnel housed in Federal or State resource and regulatory agencies that facilitate the environmental and permitting review process for transportation projects				√
<i>Environmental Staffing and Training (FTA)</i>	Regional environmental professionals manage the environmental review process, review associated documents, and serve as the Region's primary				√

<i>Initiative/Policy/Program</i>	Brief Summary	(1) Use of Technology	(2) Programmatic Prioritization	(3) Encourage Cooperation of Concise Formatting	(4) Additional Improvements
	environmental expert, while Headquarters environmental staff focus on policy, subject matter expertise, and training activities				